

APPENDIX D REAL ESTATE

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D REAL ESTATE

D.1 STATEMENT OF PURPOSE OF THE REAL ESTATE PLAN (REP)

The purpose of this Real Estate Plan (REP) is to present the overall real estate requirements, costs, acquisition schedules, and other real estate requirements necessary for the Central and Southern Florida, Comprehensive Everglades Restoration Plan, Central Everglades Planning Project (CEPP). This Real Estate Plan is tentative in nature and both the final real property acquisition lines and estimates of value are subject to change after approval of the decision document to which this Plan is appended. The REP will identify the lands required for CEPP; the lands already acquired by the South Florida Water Management District (SFWMD), the Non-Federal Sponsor; the lands which have not been acquired by the SFWMD; the value of lands and what has already been cost shared under the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104-127, 110 Stat. 1022) (Farm Bill); what lands have not been cost shared; and other details associated with land requirements and estates required for CEPP.

D.2 PROJECT AUTHORIZATION

In *Section 601 of the Water Resources Development Act of 2000* (PL 106-541) (WRDA 2000), Congress approved the Central and Southern Florida (C&SF) Project Comprehensive Review Study Integrated Feasibility Report and Programmatic Environmental Impact Statement (known as the “Yellow Book”), which describes and outlines the Comprehensive Everglades Restoration Plan (CERP):

“(b) Comprehensive Everglades Restoration Plan –

(1) Approval -

(A) IN GENERAL. —Except as modified by this section, the Plan is approved as a framework for modifications and operational changes to the Central and Southern Florida Project that are needed to restore, preserve, and protect the South Florida ecosystem while providing for other water-related needs of the region, including water supply and flood protection. The Plan shall be implemented to ensure the protection of water quality in, the reduction of the loss of fresh water from, and the improvement of the environment of the South Florida ecosystem and to achieve and maintain the benefits to the natural system and human environment described in the Plan, and required pursuant to this section, for as long as the project is authorized.”

The Central Everglades Planning Project (CEPP) is encompassed in the Comprehensive Everglades Restoration Plan (CERP). Authority will be sought under Section 601(b), and (h) WRDA 2000 for submitting a PIR, and 601(e) for cost sharing related to Federal funding for land acquisition provided to non-Federal Sponsors.

Section 601(b)(2) provides:

“(2) SPECIFIC AUTHORIZATIONS -

(C) INITIAL PROJECTS. —The following projects are authorized for implementation, after review and approval by the Secretary, subject to the conditions stated in subparagraph (D), at

a total cost of \$1,100,918,000, with an estimated Federal cost of \$550,459,000 and an estimated non-Federal cost of \$550,459,000:

(ii) Everglades Agricultural Area Storage Reservoirs-Phase I, at a total cost of \$233,408,000, with an estimated Federal cost of \$116,704,000 and an estimated non-Federal cost of \$116,704,000.

(iv) Water Conservation Areas 3A/3B Levee Seepage Management, at a total cost of \$100,335,000, with an estimated Federal cost of \$50,167,500 and an estimated non-Federal cost of \$50,167,500.

(D) CONDITIONS.—

(i) PROJECT IMPLEMENTATION REPORTS.—Before implementation of a project described in any of clauses (i) through (x) of subparagraph (C), the Secretary shall review and approve for the project a project implementation report prepared in accordance with subsections (f) and (h).

(ii) SUBMISSION OF REPORT. —The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate the project implementation report required by sub-sections (f) and (h) for each project under this paragraph (including all relevant data and information on all costs).

(iii) FUNDING CONTINGENT ON APPROVAL. —No appropriation shall be made to construct any project under this paragraph if the project implementation report for the project has not been approved by resolutions adopted by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

Section 601 (e)(3) of the WRDA 2000, (PL 106-541) details the cost sharing related to Federal funding provided to the non-Federal sponsor applicable to the acquisition of lands required for CERP projects:

“(e) COST SHARING.

(3) FEDERAL ASSISTANCE.

(A) IN GENERAL.—The non-Federal sponsor with respect to a project authorized by subsection (b), (c), or (d) may use Federal funds for the purchase of any land, easement, rights-of-way, or relocation that is necessary to carry out the project if any funds so used are credited toward the Federal share of the cost of the project.

(B) AGRICULTURE FUNDS.—Funds provided to the non-Federal sponsor under the Conservation Restoration and Enhancement Program (CREP) and the Wetlands Reserve Program (WRP) for projects in the Plan shall be credited toward the non-Federal share of the cost of the Plan if the Secretary of Agriculture certifies that the funds provided may be used for that purpose. Funds to be credited do not include funds provided under section 390 of the Federal Agriculture Improvement and Reform Act of 1996 (110 Stat.1022).”

For the CEPP, Federal funds were utilized to acquire some of the Project lands as detailed below.

Finally, Section 601(h)(4) of WRDA 2000 further requires that PIRs document:

“(4) PROJECT-SPECIFIC ASSURANCES-

(A) PROJECT IMPLEMENTATION REPORTS-

- (i) IN GENERAL- The Secretary and the non-Federal sponsor shall develop project implementation reports in accordance with section 10.3.1 of the Plan.*
- (ii) COORDINATION- In developing a project implementation report, the Secretary and the non-Federal sponsor shall coordinate with appropriate Federal, State, tribal, and local governments.*
- (iii) REQUIREMENTS- A project implementation report shall--*
 - (I) be consistent with the Plan and the programmatic regulations promulgated under paragraph (3);*
 - (II) describe how each of the requirements stated in paragraph (3)(B) is satisfied;*
 - (III) comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);*
 - (IV) identify the appropriate quantity, timing, and distribution of water dedicated and managed for the natural system;*
 - (V) identify the amount of water to be reserved or allocated for the natural system necessary to implement, under State law, subclauses (IV) and (VI);*
 - (VI) comply with applicable water quality standards and applicable water quality permitting requirements under subsection (b)(2)(A)(ii);*
 - (VII) be based on the best available science; and*
 - (VIII) include an analysis concerning the cost-effectiveness and engineering feasibility of the project."*

D.3 PROJECT LOCATION AND DESCRIPTION

The project location is generally located in South Florida in Palm Beach, Broward and Miami-Dade counties. The study area for the Central Everglades Planning Project (CEPP) encompasses the Northern Estuaries (St. Lucie River and Estuary, Indian River Lagoon, and the Caloosahatchee River and Estuary), Lake Okeechobee, a portion of the Everglades Agricultural Area (EAA), the Water Conservation Areas (WCAs), Everglades National Park (ENP), the Southern Estuaries (Florida Bay and Biscayne Bay), and the Lower East Coast (LEC). The project footprint of the A-2 Flow Equalization Basin (A-2 FEB) is approximately 14,000 acres of land.

Water Conservation Areas 3A/3B (WCA 3A/3B) are comprised of approximately 578,597 acres. The adjacent canals and levees to the WCA 3A/3B include an additional approximately 11,599 acres. The adjacent levees and their borrow canals include the Levees 30, 33, 36, 38E, and 38W on the east ; Levees 4, 5, and 6 on the north; Levee 28 on the west; and Levee 29 on the south. The lands required along the right-of-way of Levee 31N consist of approximately 325 acres. The project study area has been divided into reaches as follows: North of Redline, South of Redline, Greenline/Blueline and Yellowline. As indicated above, the planning process has recently completed identification of a Tentatively Selected Plan. Project features include, but are not limited to, storage and treatment retention basins, canal modifications (plugging and re-routing), removal of existing levees, new levees, flow control structure, pump stations and seepage barriers. The Spatial Perspective Map of the project area is shown on **Figure D-1**.

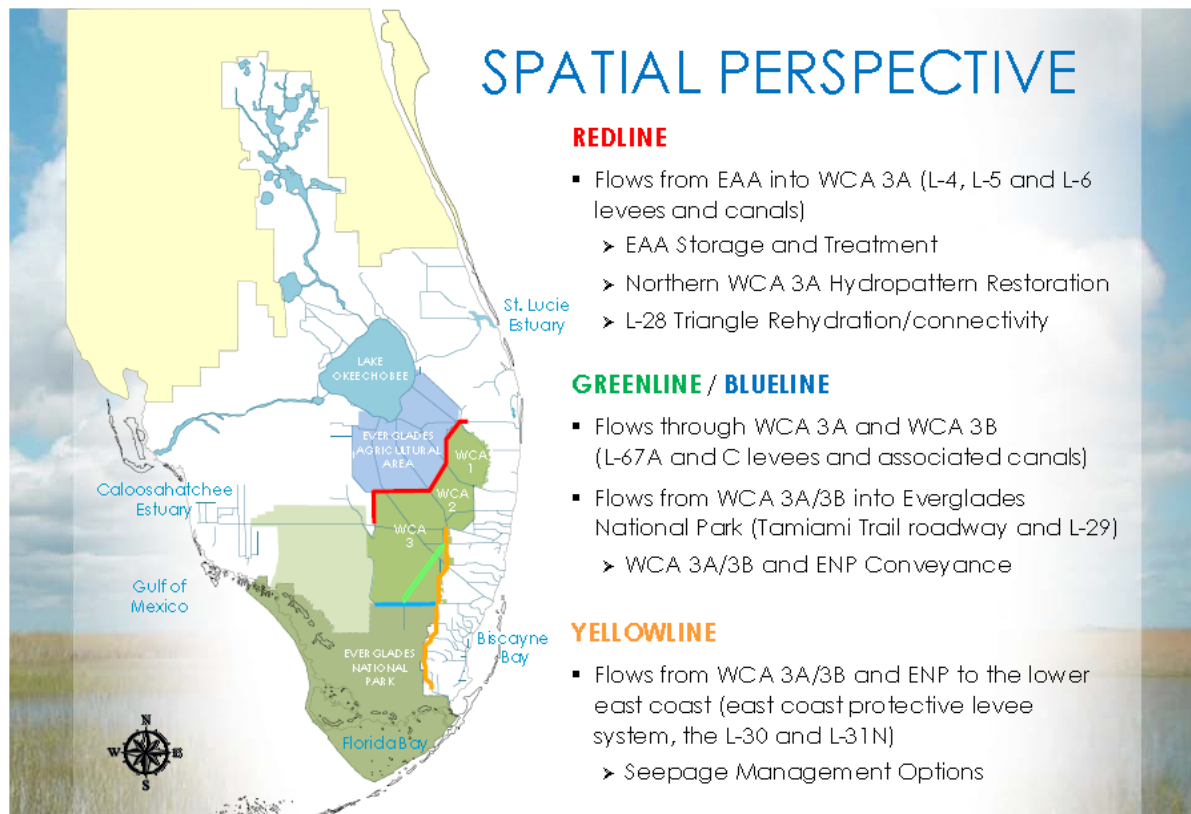


Figure D-1: SPATIAL PERSPECTIVE MAP

The purpose of CEPP is to improve the quantity, quality, timing and distribution of water flows to the central Everglades. CEPP will identify and plan for projects on land already in public ownership to allow more water to be directed south to the central Everglades, Everglades National Park (ENP) and Florida Bay while protecting coastal estuaries. The CERP components identified to be studied as part of the CEPP are: the Everglades Agricultural Area Storage Reservoir, Decompartmentalization of Water Conservation Area 3, Everglades National Park Seepage Management and Everglades Rain Driven Operations. These components are highly interdependent features of the recommended plan that are being formulated, optimized and implemented in a comprehensive and integrated manner. They make up the heart of the CERP and will lead to the next suite of restoration projects.

D.4 TENTATIVELY SELECTED ALTERNATIVE PLAN (ALT4R2)

The tentatively selected plan would decrease the large pulses of Lake Okeechobee water that currently are sent east to the St. Lucie and west to the Caloosahatchee estuaries and send this water southward through Everglades Agricultural Area canals to flowage equalization basins (FEBs). This reduction of the existing high flows to the St. Lucie and Caloosahatchee estuaries would help restore these estuaries. The FEBs would deliver water to existing stormwater treatment areas, which would reduce phosphorus concentrations in the water. The treated water would be released at the northwestern end of WCA 3A to flow through and restore much of WCA 3A, WCA 3B, ENP, and Florida Bay. Several existing levees, canals, and culverts, and pump stations would be constructed, modified, or removed to improve the flow of water through the system. The components of the TSP, Alternative 4R2, are organized into four geographic areas: North of the Redline, South of the

Redline, the Greenline/Blue/line and along the Yellowline. **Figure D-2** shows the Tentatively Selected Plan.

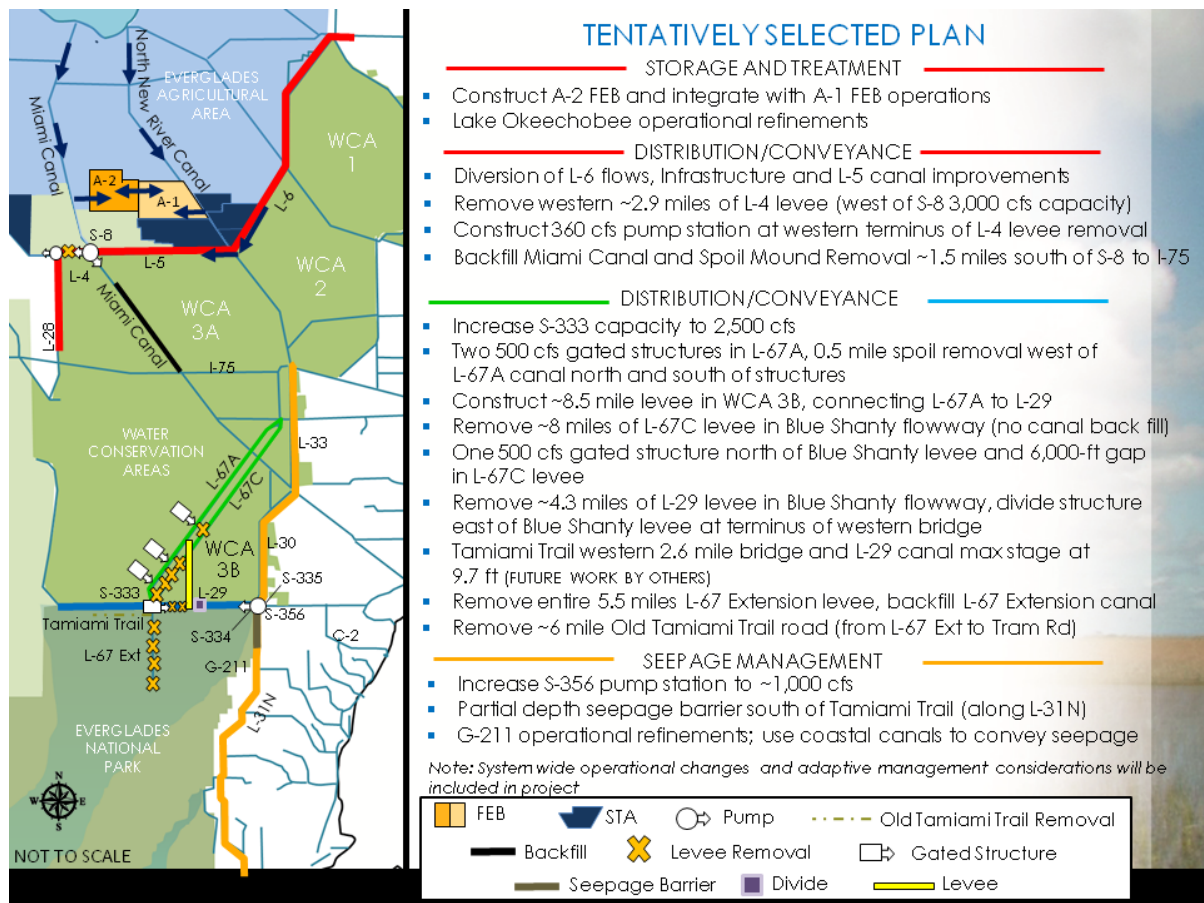


Figure D-2: TENTATIVELY SELECTED PLAN

D.4.1 Features-North of Redline-Storage and Treatment Flow Equalization Basin (FEB) A-2

D.4.1.1 General Information

Everglades Agricultural Area (EAA) (North of the Redline) includes construction and operations to divert, store and treat Lake Okeechobee regulatory releases.

Storage and treatment of new water will be possible with the construction of a 14,000 acre FEB and associated distribution features on the A-2 footprint that is operationally integrated with the state-funded and state-constructed A-1 FEB and existing STAs. The FEB will accept EAA runoff and undesirable discharges from Lake Okeechobee to the estuaries would be diverted to the FEB when FEB/STAs and canals have capacity.

D.4.1.2 Location

The A-2 FEB is located in Palm Beach County, between the Miami Canal and North New River Canal, and north of WCA 3A. It is adjacent to the western boundary of the A-1 FEB. The inflow to the impoundment begins about 1.5 miles east of G-372 pump station. **Figure D-3** shows the TSP Treatment and Storage Features and Location. More Details regarding these features can be found in **Appendix A-Engineering Appendix**.

NORTH OF THE REDLINE

STORAGE AND TREATMENT EQUALIZATION BASIN (FEB) – A2

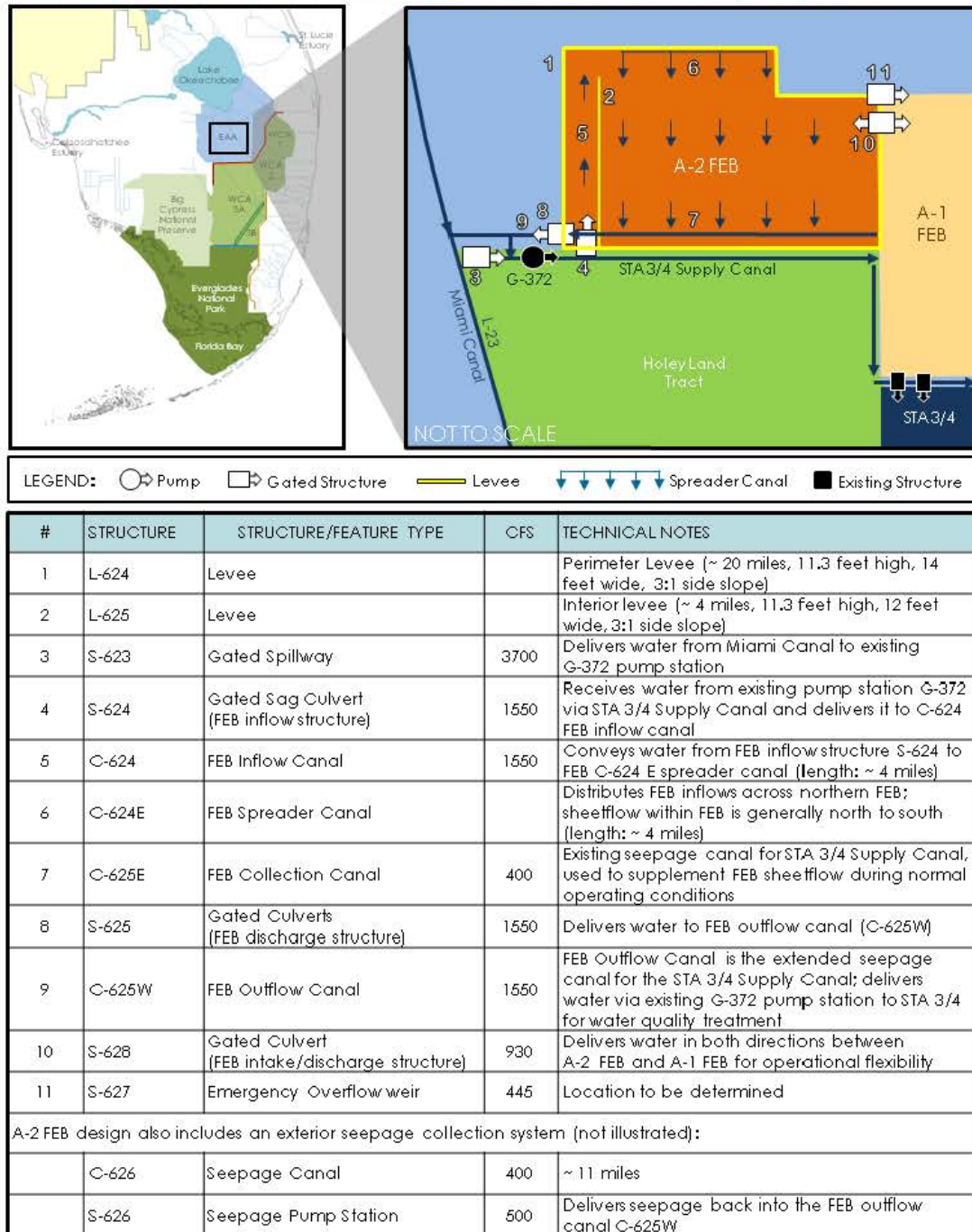


Figure D-3. TSP Treatment and Storage Features and Location

D.4.1.3 Real Estate Required

The A-2 FEB and associated structures will be located on approximately 13,849.34 acres of which approximately 13,839.44 acres were acquired utilizing Federal Farm Bill funds and SFWMD funds. The remaining approximately 9.90 acres were acquired by SFWMD with State funds. SFWMD owns fee to these lands and that will be the estate required for the A-2 FEB. For the C-625W FEB Outflow Canal, SFWMD owns fee title, which will be the required estate, to approximately 34.23 acres acquired utilizing Federal Farm Bill funds and SFWMD funds. The remaining approximately 57.02 acres required for the C-625W FEB Outflow Canal are owned by the State of Florida and the interest required for the project will be obtained by the SFWMD. The Federal government will receive credit for Federal funds and SFWMD will receive credit for its actual costs except for those lands purchased or to be purchased solely with State funds which will be credited at the fair market value at the time of certification. More details on land costs and crediting are provided in paragraph D.26 below.

D.4.2 Features-South of Redline-Distribution & Conveyance

D.4.2.1 General Information

WCA 2A and Northern WCA 3A (South of the Redline) includes conveyance features to deliver and distribute existing flows and the redirected Lake Okeechobee water through WCA 3A.

Backfilling 13.5 miles of the Miami Canal between I-75 and 1.5 miles south of the S-8 pump station, and converting the L-4 canal into a spreader canal by removing 2.9 miles of the southern L-4 levee are the key features needed to ensure spatial distribution and flow directionality of the water entering WCA 3A.

Conveyance features to move water into and through the northwest portion of WCA 3A include: a gated culvert to deliver water from the L-6 Canal to the remnant L-5 Canal, a new gated spillway to deliver water from the remnant L-5 canal to the western L-5 canal (during L-6 diversion operations); a new gated spillway to deliver water from STA 3/4 to the S-7 pump station during peak discharge events (eastern flow route is not typically used during normal operations), including L-6 diversion operations; a 360 cfs pump station to maintain Seminole Tribe water supply deliveries west of the L-4 Canal; and new gated culverts to deliver water from the Miami Canal (downstream of S-8, which pulls water from the L-5 Canal) to the L-4 Canal.

The Miami Canal will be backfilled to approximately 1.5 feet below the peat surface of the adjacent marsh. Spoil mounds on the east and west side of the Miami Canal from S-8 to I-75 will be used as a source for Miami Canal backfill material. Refuge for fur-bearing animals and other upland species will continue to be provided by the retention of 22 of the highest priority Florida Fish and Wildlife Conservation Commission (FWC) enhanced spoil mounds between S-339 to I-75 and the creation of additional upland landscape (constructed tree islands) approximately every mile along the entire reach of the backfilled Miami Canal section (S-8 to I-75) where historic ridges or tree islands once existed. The constructed tree islands will block flow down the backfilled canal due to the tree island having a profile across the landscape that varies, or undulates, in elevation. Miami Canal constructed tree island design details will be determined during CEPP preconstruction, engineering and design (PED) phase. Tree island design, construction/planting will be coordinated with appropriate science team members with expertise in these topics to accomplish the restoration vision and intent of CEPP's canal backfilling and tree island construction. A diverse array of species will be planted, including trees, shrubs, and herbaceous species that are appropriate for these tree islands.

D.4.2.2 Features

Figure D-4 TSP Northern Conveyance and Distribution Features and Location. shows the features south of the Redline. More Details regarding these features can be found in **Appendix A-Engineering Appendix**.

SOUTH OF THE REDLINE DISTRIBUTION AND CONVEYANCE

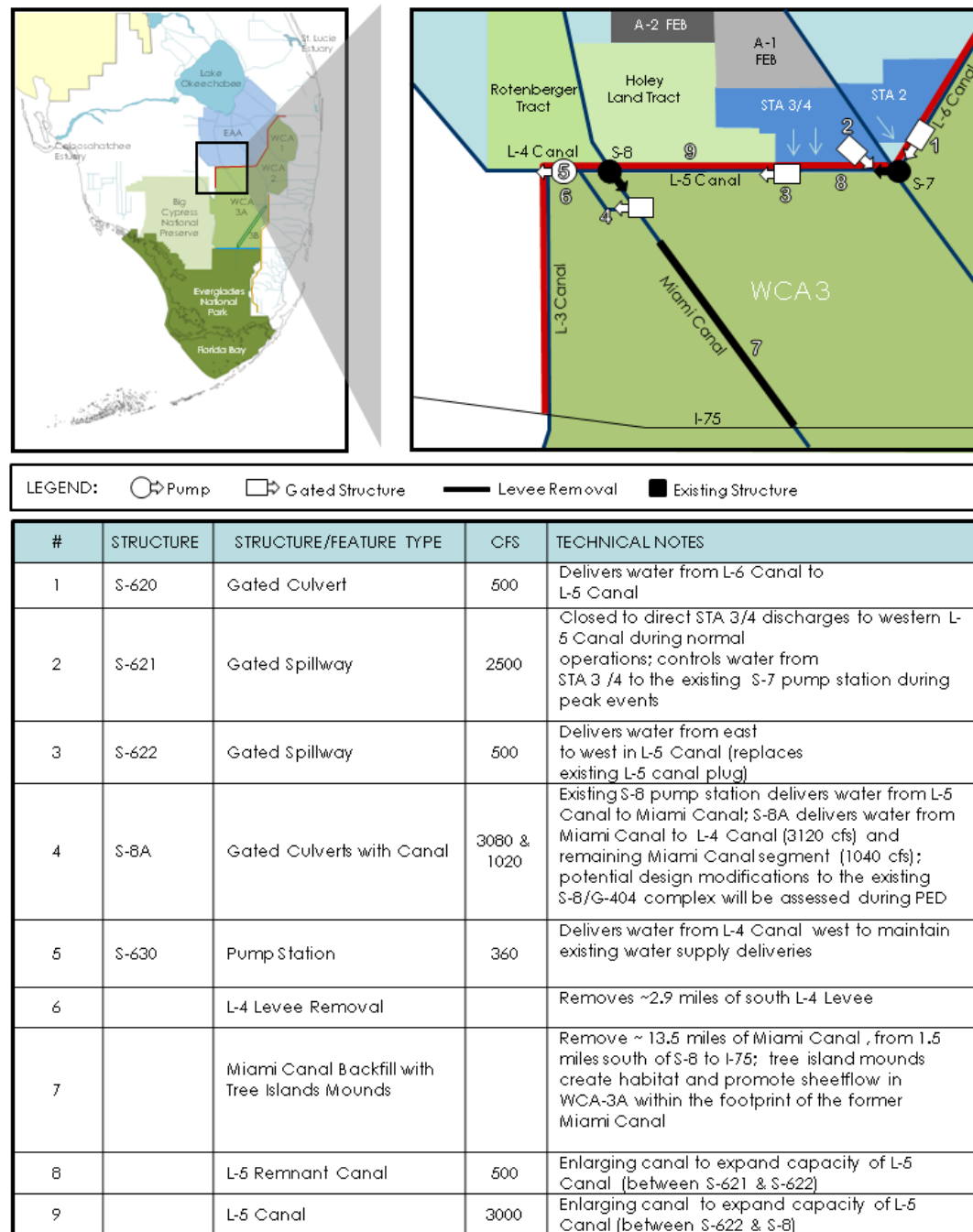


Figure D-4. TSP Northern Conveyance and Distribution Features and Location.

D.4.2.3 Real Estate Required

The structures listed above will be constructed on lands within the right-of-way of existing canals or levees or within lands in WCA 3A/3B which were previously acquired and provided as an item of

local cooperation for the original C&SF Project. SFWMD owns sufficient interests in these lands for the construction of these project features. SFWMD owns fee or a perpetual easement. Where SFWMD owns a perpetual easement, the State of Florida owns the underlying fee title. During the PED Phase and as more details are provided for the exact location of each of these features, the interest owned by SFWMD will be investigated to determine if a greater interest is required. SFWMD will not receive credit for the provision of these lands unless a greater interest is required and then only for the difference in value between the interest provided for the C&SF project and that required for CEPP. More details on land costs and crediting are provided in paragraph D.26 below.

D.4.3 Features-Blueline/Greenline -Distribution and Conveyance

D.4.3.1 General Information

Southern WCA 3A, WCA 3B, and ENP (Greenline/Blueline) includes conveyance features to deliver and distribute water from WCA3A to WCA 3B and ENP.

A new Blue Shanty levee extending from Tamiami Trail northward to the L-67A levee will be constructed. This Blue Shanty levee will divide WCA 3B into two subunits, a large eastern unit (3B-E) and a smaller western unit, the Blue Shanty Flowway (3B-W). A new levee is the most efficient means to restore continuous southerly sheetflow through a practicable section of WCA 3B and alleviates concerns over effects on tree islands by maintaining lower water depths and stages in WCA 3B-E. The width of the 3B-W flow-way is aligned to the width of the downstream 2.6-Mile Tamiami Trail Next Steps bridge, optimizing the effectiveness of both the flow-way and bridge.

In the western unit, construction of two new gated control structures on the L-67A, removal of the L-67C and L-29 Levees within the flowway, and construction of a divide structure in the L-29 Canal will enable continuous sheetflow of water to be delivered from WCA 3A through WCA 3B to ENP. A gated control structure will also be added to the L-67A, outside the flowway, to improve the hydroperiod of the eastern unit of WCA 3B.

Increased outlet capability at the S-333 structure at the terminus of the L-67A canal, removal of approximately 5.5 miles of the L-67 Extension Levee, and removal of approximately 6 miles of Old Tamiami Trail between the ENP Tram Road and the L-67 Extension Levee will facilitate additional deliveries of water from WCA 3A directly to ENP. Detailed design and construction of these features will consider improving recreation access and minimize project footprints due to the nature of these environmentally sensitive areas. Establishment of expanded maintenance easements along the old Tamiami Trail for existing and new infrastructure, to facilitate road modifications, maintenance and water delivery are recommended.

D.4.3.2 Location

The proposed CEPP features encompassed by the Blueline/Greenline lie within Miami-Dade County. The S-631, S-632, and S-633 gated culverts are located on the southern portion of the L-67A Canal, with S-333N south of the intersection of the L-67A and L-67C Canals. The proposed Blue Shanty Levee is located between the L-67A and the L-29 Canals, eastward of the L-67 Extension. The S-355W spillway is located at the intersection of the Blue Shanty Levee and the L-29 Canal.

D.4.3.3 Features

The CEPP project has the following hydraulic features within the Blue/Greenline boundaries which are shown on **Figure D-5. TSP Southern Distribution and Conveyance Features and Location.**

More Details regarding these features can be found in **Appendix A-Engineering Appendix.**

BLUE AND GREEN LINES DISTRIBUTION AND CONVEYANCE

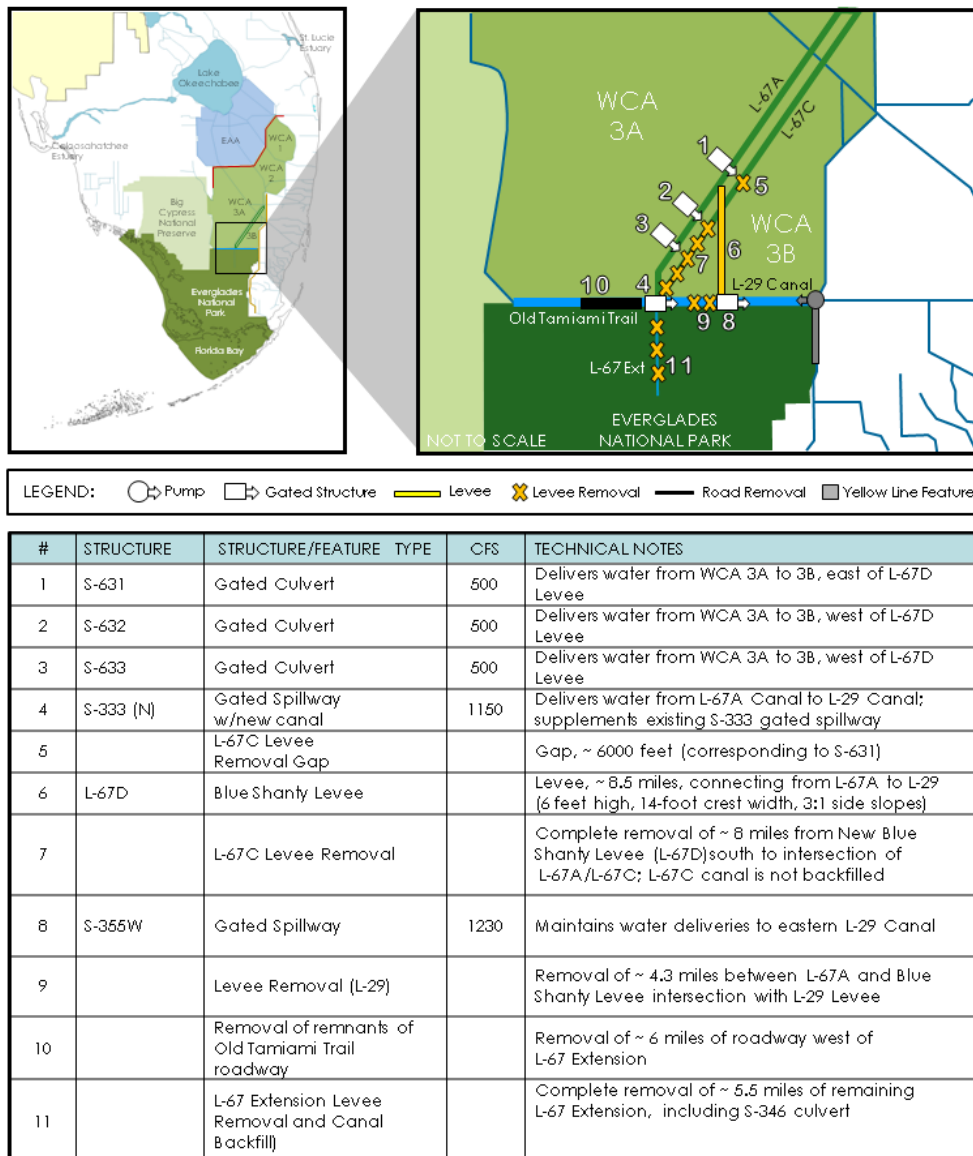


Figure D-5. TSP Southern Distribution and Conveyance Features and Location.

D.4.3.4 Real Estate Required

Except for the Old Tamiami Trail, the structures listed above will be constructed on lands within the right-of-way of existing canals or levees or within lands in WCA 3A/3B which were previously acquired and provided as an item of local cooperation for the original C&SF Project. SFWMD owns sufficient interests (fee or a perpetual easement) in these lands for the construction of these project features. Where SFWMD owns a perpetual easement, either the State of Florida or private parties own the underlying fee title. During the PED Phase, as more details are provided for the exact location of each of these features, the interest owned by SFWMD will be investigated to determine if a greater interest is required. SFWMD will not receive credit for the provision of these lands unless a greater interest is required and then only for the difference in value between the interest provided for the C&SF project and that required for CEPP. The Old Tamiami Trail right-of-way is owned by the United States of America, National Park Service (NPS). The NPS will provide a permit authorizing use of these lands for removal of the Old Tamiami Trail.

More details on land costs and crediting are provided in paragraph D.26 below.

D.4.4 Features-Yellowline- Seepage Management

Lower East Coast Protective Levee (Yellowline): Includes features primarily for seepage management, which are required to mitigate for increased seepage resulting from the additional flows into WCA 3B and ENP.

A newly constructed pump station with a combined capacity of 1,000 cfs will replace the existing temporary S-356 pump station, and a 4.2 mile seepage barrier cutoff wall will be built along the L-31N Levee south of Tamiami Trail.

There is an existing 2-mile seepage barrier cutoff wall in the same vicinity that was constructed by a permittee as mitigation. There is a possibility that the same permittee may construct an additional 5 miles of seepage wall south of the 2-mile seepage barrier cutoff wall, if permitted. Since the capability and effectiveness of the existing seepage barrier cutoff wall to mitigate seepage losses from ENP remains under investigation, the CEPP TSP conservatively includes an approximately 4.2 mile long, 35 feet deep tapering seepage barrier cutoff wall in the event construction is necessary.

D.4.4.1 Location

The proposed CEPP features encompassed by the yellowline lie within Miami-Dade County. The S-356 is located on the L-29 Levee. The Seepage Barrier Cutoff Wall is located in the L-31N right-of-way.

D.4.4.2 Features

The CEPP within the yellowline boundaries project has the hydraulic features which are shown on **Figure D-6** TSP Seepage Management Features and Location.

More Details regarding these features can be found in **Appendix A-Engineering Appendix**.

YELLOW LINES SEEPAGE MANAGEMENT

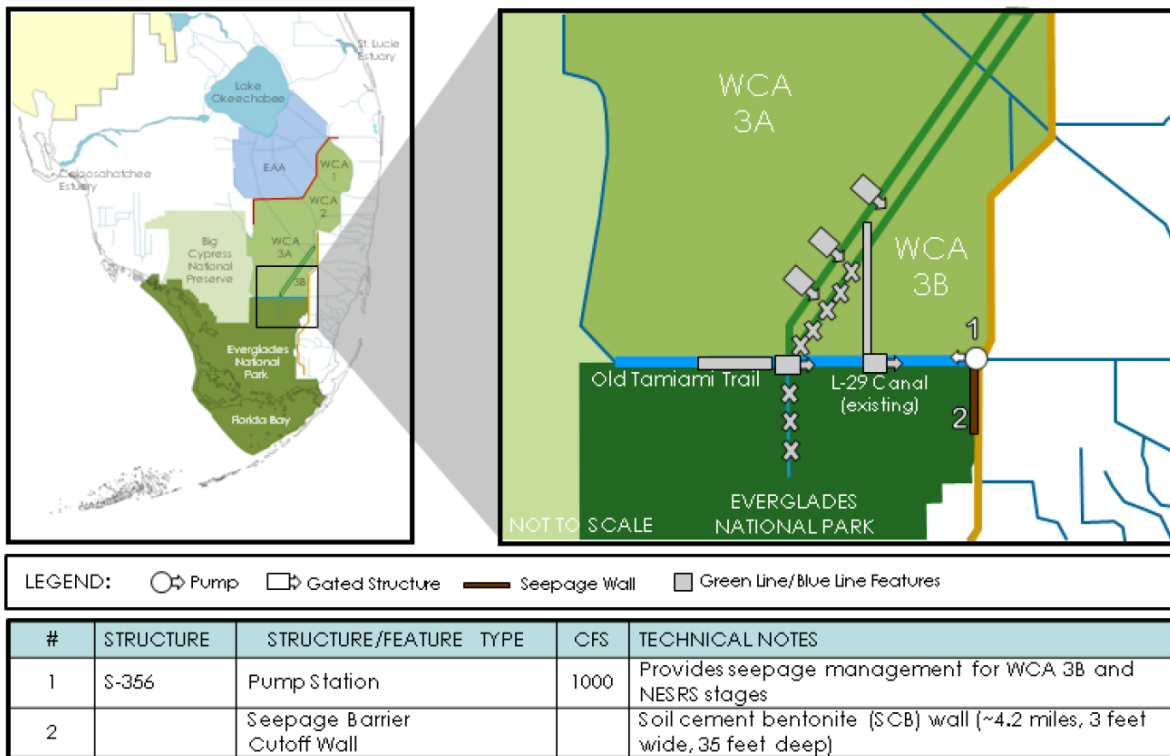


Figure D-6. TSP Seepage Management Features and Location.

D.4.4.3 Real Estate Required

The S-356 structure listed above will be constructed on lands within the right-of-way of existing L-29 levee which was previously acquired and provided as an item of local cooperation for the original C&SF Project. The Seepage Barrier Cutoff Wall will be constructed within the right-of-way of the L-31N Levee which was previously acquired and provided as an item of local cooperation for the original C&SF Project. SFWMD owns sufficient interests (fee or a perpetual easement) in these lands for the construction of these project features. Where SFWMD owns a perpetual easement, either the State of Florida or private parties own the underlying fee title. During the PED Phase, as more details are provided for the exact location of each of these features, the interest owned by SFWMD will be investigated to determine if a greater interest is required. SFWMD will not receive credit for the provision of these lands unless a greater interest is required and then only for the difference in value between the interest provided for the C&SF project and that required for CEPP.

More details on land costs and crediting are provided in paragraph D.26 below.

D.5 EXISTING FEDERAL PROJECTS

The Miami Canal (L-25, L-24 and L-23) is part of the original Central and Southern Florida (C&SF) Project. The right-of-way for the Miami Canal varies in width from 250 to 500 feet in the Project

Area; all improvements within or filling of the Miami Canal will be conducted within the existing right-of-way owned in fee or perpetual easement by SFWMD. Water Conservation Areas 3A/3B and the L-67 Levees are part of the C&SF project. The adjacent levees and their borrow canals which include the L-30, L-33, L-36, L-38E, and L-38W to the east; L-4, L-5, and L-6 on the north; L-28 on the west; and L-29 and L-31N on the south are also part of the original C&SF project. The interest and estates held by SFWMD are sufficient for the CEPP Project purposes as set forth in paragraph D-11 below. Because these lands were acquired and provided for the prior Federal project (C&SF), SFWMD will not receive credit for these lands for the CEPP Project in accordance with the CERP Master Agreement Article IV. A. which states: "... However, no amount shall be included in project construction costs, no credit shall be afforded, and no reimbursement shall be provided for the value of any lands, easements, rights-of-way, or relocations that have been provided previously as an item of cooperation for another Federal project." More details on land costs and crediting are provided in paragraph D.26 below.

D.6 FEDERALLY OWNED LANDS

There are Federally-owned lands in the project area located underlying the Old Tamiami Trail, which are owned by the United States of America, National Park Service (NPS). The Old Tamiami Trail will be removed. NPS will provide a permit authorizing use of these lands for removal of the Old Tamiami Trail and construction of S-346 metal culvert.

D.7 FEDERAL AGRICULTURE IMPROVEMENT AND REFORM ACT OF 1996 (FARM BILL)

On April 4, 1996, Congress enacted the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104-127, 110 Stat. 1022). The provisions of Section 390 of the Federal Agriculture Improvement and Reform Act of 1996 are set forth on Exhibit "A" to this Real Estate Plan: Section 390 gave the Secretary of Interior broad discretion in the expenditure of the initial \$200,000,000 and more limited discretion in the expenditure of the additional \$100,000,000 to be generated by the sale of excess or surplus Federal property. The Secretary of Interior could expend all the funds without assistance or could provide the funds to the Army Corps of Engineers, the State of Florida, or the South Florida Water Management District on such terms and conditions as was determined necessary.

On October 3, 1996, a Framework Agreement (Agreement) was executed by the United States Department of Interior (DOI), the United States Department of the Army (Army), the State of Florida, Department of Environmental Protection (FDEP) and the South Florida Water Management District (SFWMD). The Agreement was developed to provide a framework and procedures for the Secretary of Interior to provide Section 390 funds to the other parties for Everglades ecosystem restoration for the acquisition of real property or the construction of features that were intended to become part of existing or future Army projects. The Agreement specifically recognizes that Section 390 provided "the Secretary of the Interior with discretion to determine the use of Section 390 funds for restoration purposes and with the responsibility to ensure that Section 390 funds are used for restoration purposes." Article I states that "except as otherwise provided by law or agreed to by the Secretary of Interior, all Section 390 funds expended will be matched by non-Federal funds on a dollar-for-dollar basis." This Article also states: "Section 390 funds disbursed for the acquisition of real property or the construction of features shall count as Federal funds for cost sharing purposes

for Army projects. Funds provided by the non-Federal parties to match Federal funds provided under Section 390 will be treated as non-Federal funds for cost-sharing purposes for Army projects. The value of real estate acquired pursuant to this Article shall be the acquisition cost of such real property for credit purposes under applicable cost-sharing principles.”

D.8 NON-FEDERAL SPONSOR OWNED LANDS

The SFWMD owns fee to approximately 13,849.44 acres within Compartment A required for the A-2 FEB. The SFWMD also owns fee to Section 35, Township 46 South, Range 35 East, where a portion of the proposed FEB Outflow Canal will be constructed, consisting of approximately 34.23 acres. These lands were acquired for CERP.

The SFWMD also owns fee or a perpetual canal easement interest to the portion of the Miami Canal required for the Project; these interests are sufficient for project purposes. WCA 3A/3B, which are part of the C&SF project, are comprised of approximately 578,597 acres. SFWMD has various estates and interests in these lands. SFWMD owns fee to approximately 134,280.95 acres, a perpetual flowage easement over approximately 444,316.05 acres and canal right-of-way deeds for over approximately 11,598.84 acres for the following levees and their adjacent borrow canals: L-30, L-33, L-36, L-38E, L-38W, L-4, L-5, L-6, L-28, and L-29, which are also part of the original C&SF project. SFWMD owns fee title to approximately 325 acres within the L-31N right-of-way which will be required for construction of the Seepage Barrier Cutoff Wall. The interest and estates are discussed in more detail paragraph D-11 below. The estates held by SFWMD are sufficient for the CEPP Project purposes. SFWMD will not receive credit for the provision of these lands for the CEPP Project as these lands have been previously acquired for the C&SF project. More details on land costs and crediting are provided in paragraph D.26 below.

D.9 HUNT CAMP LEASES

Throughout WCA 3A/3B are hunt camps. The hunt camps are on lands owned in fee by the SFWMD, on lands owned in fee by the State and on lands owned in fee by private parties over which the SFWMD has perpetual easements.

In WCA 3A/3B, the SFWMD has approximately 18 hunt camp leases allowing construction or maintenance of existing facilities. Each of these leases contain the following provision: “WATER LEVELS: The LESSEE hereby waives any and all claims on the part of the LESSEE and agrees to indemnify and hold harmless LESSOR, the United States of America and the State of Florida from any and all claims, damages or losses or demands of any kind or nature, which may arise or be incident to regulation of water levels associated with the leased premises by the LESSOR and/or the U.S. Army Corps of Engineers. LESSOR will neither guarantee groundwater levels nor guarantee any level of flood protection.” Most of these leases expire in 2020.

The State of Florida through the Board of Trustees has executed approximately 52 hunt camp leases in WCA 3A/3B. Each of these leases contain the following provision: “WATER LEVELS: The LESSEE hereby waives any and all claims on the part of the LESSEE and agrees to indemnify and hold harmless LESSOR, the United States of America and the State of Florida from any and all claims, damages or losses or demands of any kind or nature, which may arise or be incident to regulation of water levels associated with the leased premises by the LESSOR, the South Florida Water

Management District, and/or the U.S. Army Corps of Engineers. LESSOR will neither guarantee groundwater levels nor guarantee any level of flood protection.” Most of these leases expire in 2020.

There are 16 hunt camps within the WCA 3A/3B located on lands over which SFWMD has perpetual flowage easements that are private and with no record of any lease or permit from either the State of Florida or the SFWMD.

Because SFWMD owns either fee or perpetual flowage easements over the lands where these hunt camps are located and because the leases from the State and SFWMD contain the provisions related to the regulation of water levels, no acquisition or relocation of these hunt camps are required.

Additionally, there are hunt camps on lands within WCA 3 that are leased to the Miccosukee Tribe of Indians of Florida. The Governor and Cabinet as the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida; the South Florida Water Management District granted to the Miccosukee Tribe of Indians of Florida a perpetual lease covering approximately 189,000 acres in WCA 3A. among the rights granted to the Miccosukee Tribe pursuant to the lease are the following: “(a) Subject to the provisions of paragraph 2. of this Lease Agreement and the approval of appropriate legislation to such effect by the Florida Legislature as required in the Settlement Agreement described in paragraph 8 below, the members of the Miccosukee Tribe shall have the right during the term of this Lease Agreement to hunt and fish for subsistence purposes and to take frogs for consumption as food and for commercial purposes without restriction as to season in the Leased Area and the Miccosukee Reservation and shall not be required to purchase any license or permit from the Commission in order to exercise such rights; (b) The Miccosukee Tribe and its members shall have the right to engage in traditional subsistence-agricultural activities in the Leased Area. It is understood that revenue producing agricultural activities on the Leased Area at this time are inconsistent with the proper use of the area as a water flowage and storage area by the SFWMD. However, should conditions change, the Tribe may seek permission from the SFWMD to engage in revenue-producing agricultural activities if such activities will not interfere with the rights and uses of the SFWMD. Approval by the SFWMD shall be pursuant to the permit procedures applicable to any private citizen; (c) The Miccosukee Tribe, and members of the Miccosukee Tribe under regulations the Tribe may adopt, shall have the right: (1) to reside in the Leased Area, including the construction of traditional homes, subject to the provisions of paragraph 6; (2) to use the Leased Area for tribal religious purposes; and (3) to take and use native materials from the Leased Area for tribal purposes, fabrication into artifacts, utensils, handicrafts and/or souvenirs for sale, subject to the provisions of subparagraph 3e below.”

The lease is subject to the following provision: “6. Rights of South Florida Water Management District. The Leased Area has for many years comprised a portion of a large reservoir utilized for the flowage and storage of water servicing the area of Broward, Dade, Monroe and Collier Counties and designated as Water Conservation Area 3 as part of the federally authorized project of flood control and water management for central and southern Florida. The Commission and the Miccosukee Tribe agree that all of the rights set forth in paragraphs 1 through 5 and 7 are subject to and shall not interfere with the rights, duties and obligations of the SFWMD or the United States Army Corps of Engineers, pursuant to the requirements of the aforesaid federally authorized project, conveyances, easements, grants, rules, statutes, or any other present or future lawful authority to manage, regulate, raise, or lower the water levels within the Leased Area or Water Conservation Area 3,

including, but not limited to the Dedication from the Board of Commissioners of State Institutions of the State of Florida dated August 8, 1950.”

Because this lease from the State and SFWMD contains the above provision related to the regulation of water levels, no acquisition or relocation of these hunt camps located on the Miccosukee Tribe leased lands are required.

D.10 AGRICULTURAL LEASES AND RESERVATIONS

D.10.1 SFWMD LEASE AND RESERVATIONS

When the Talisman Exchange deeds were executed in March 1999, they contained certain reservations in favor of the Grantors. The following is a synopsis of the reservations in the deeds:

Each reservation provides that the reservation continues through March 31, 2005 and thereafter annually until the Property is needed for a Project as determined by the District and the Army Corps. The reservations, if not otherwise terminated earlier, expire on March 31, 2014. Provided however, that if the lands are determined by the District and Army Corps to be not needed for a Project, such surplus property (and all other property subject to the reservation) shall continue to be made available for farming by the reservation holder through the earlier of March 31, 2019 or the date an exchange of such lands is consummated between the District and the reservation holder. After March 31, 2019, the reservation holder has a right of first refusal to any lease of such lands for agricultural use. The farmers have the right to continue farming any field covered by the reservation annually unless and until the Property is needed for a Project as determined by the District and the Corps. Grantor has the right to continue farming any field unless and until: farming or access for farming purposes becomes incompatible with, as reasonably determined by the District and the Corps, the initiation of actual construction or the Implementation of a District/Corps Project("Project") and the required notices are given. The term "Project" is defined to include (1) the Everglades Construction Project pursuant to section 373.4592, (2) a water storage, water quality, or other facility pursuant to the Restudy and further acts of Congress authorizing Implementation, (3) an Everglades restoration project unrelated to the Corps Restudy approved by the District and the United States Department of the Interior. "Implementation" is defined as the actual operation of a Project or the need for possession of a field to condition or prepare the Property or the actual operation of a Project.

Talisman Sugar Company assigned its reserved rights to New Hope Sugar Company. Okeelanta Corporation and New Hope Sugar have both executed leases with SFWMD with similar termination dates and provisions.

Of the approximately 13,849.34 acres owned by SFWMD and required for the A-2 FEB, approximately 8,759.23 acres are being farmed by New Hope Sugar Company and approximately 5,000.17 acres are being farmed by Okeelanta Corporation. The approximately 34.23 acres owned by SFWMD required for the FEB Outflow Canal are currently being farmed by the Okeelanta Corporation.

D.10.2 STATE OF FLORIDA LEASE

The proposed FEB Outflow Canal requires approximately 57.02 acres of lands owned by the State of Florida in Section 36, Township 46 South, Range 35 East. The lands will be required in the seventh year after congressional authorization of CEPP and execution of the PPA. The estimated year in which the lands would have to be provided is 2030, which would be the fourteenth year of a new lease. The State of Florida through the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida has leased Sections 24 and 36, Township 46 South, Range 35 East to New Hope South, Inc. The date of the lease is October 20, 1995 with the term ending on January 31, 2016. The State has already agreed to lease this land for another 20 year period when the existing lease expires. The current lease contains a termination provision, which provides:

Notwithstanding the term specified in the preceding sentence, after the ninth Lease Year (as hereinafter defined) LESSOR may terminate this lease provided that: (1) LESSOR determines that LESSEE has ceased to be impacted as provided in Section 373.4592, Florida Statutes (1994 Supp.); and (2) LESSOR then gives LESSEE two years written notice of its intention to terminate this lease. For purposes of this lease the term "Lease Year" shall mean a period of twelve (12) consecutive months beginning on the date of this lease. If this lease is terminated by LESSOR based on a finding that LESSEE has ceased to be impacted, LESSEE shall be entitled to be compensated for any documented, unamortized planting costs and any unamortized capital costs associated with the lease and incurred prior to notice. No other right of compensation shall exist after expiration or termination of the lease, except that, if after any other termination of this lease, ratoon, stubble or residual crop remaining on the leased premises is harvested or otherwise utilized by LESSOR or any third party, LESSEE shall be entitled to be compensated for any documented, unamortized planting costs and any unamortized capital costs associated with the lease and incurred prior to notice. If LESSOR and LESSEE cannot mutually agree as to the unamortized planting and capital costs, such costs shall be determined by an independent certified public accountant selected by the Florida Institute of Certified Public Accountants. The cost of such certified public accountant shall be paid equally by LESSEE and LESSOR. In no event will occupation by Lessee extend beyond January 31, 2016.

It is unknown whether this termination provision and the cost associated with the termination will be in the new lease. An incremental real estate cost has been calculated to provide for costs associated with the potential for termination of the lease for the approximately 57.02 acres required for the FEB Outflow Canal.

When this Lease was originally negotiated, SFWMD was contemplating construction of Stormwater Treatment Area 3/4 (STA 3/4) and the lease made provision for the removal of the lands in Section 36 required for the STA 3/4 Canal to the Miami Canal. The provision in the current lease provides:

54. SPECIAL PROVISIONS REGARDING PARCEL B: Parcel B is designated to be included in works for a stormwater treatment area (STA) of the Everglades Construction Project as provided in Section 373.4592, F.S. LESSEE may lease Parcel B during the term of this lease until such time as SFWMD requires possession of said parcel for STA construction purposes. The lease shall terminate as to Parcel B upon 2.5 years' written notice to LESSEE by LESSOR that the parcel must be surrendered for STA construction. In such case, the rental amount shall be adjusted on a pro rata basis in accordance with the last mandatory appraisal. LESSEE shall be credited for any advance payment made as to Parcel B. With regard to Parcel B, SFWMD or their authorized agents, representatives, or employees shall have the right, after reasonable notice to LESSEE, of access and investigation purposes associated with STA design.

The SFWMD will request the same provision in the new lease for the lands required for the FEB Outflow Canal; however, it is uncertain whether the provision will be included.

D.11 ANALYSIS OF ESTATE REQUIRED FOR THE PROJECT

The Programmatic Regulations for the CERP, 33 Code of Federal Regulations (CFR) 385, Part 385.5, require the development of Six Program-Wide Guidance Memorandum. After completion of the Takings Analysis to determine the lands impacted by project operations, the July 2007 draft of the Six Program-Wide Guidance Memoranda in Section 1.10.3 provides that an analysis to determine the estates required for implementation of a project should be determined using the following guidelines.

D.11.1 Estates Required for Comprehensive Everglades Restoration Plan Projects

For all lands determined to be required for the CERP projects, the interests required for implementation generally will be fee simple, based on assumptions that all or a significant portion of the rights in the land will be required for project purposes. Although fee acquisition should be the standard estate for CERP projects, lesser estates such as flowage or conservation easements should be considered, as appropriate, if the benefits of the project can still be achieved with the lesser estate. The PIR should provide the rationale for such lesser estates. To verify the appropriateness of fee simple acquisition or less than fee acquisition, the PIR must include the following analysis and the conclusions must be reflected in the appropriate report sections. The level of detail required for the analysis will vary depending on the project feature involved. Determine the rights that are required to construct and perform operation, maintenance, repair, rehabilitation, and replacement for the CEPP project:

- Identify the affirmative rights on the land that are required to implement the project.
- In addition to affirmative rights that may be required, identify restrictions on use (restrictive covenants) by the fee owner that are required so as not to interfere with project purposes and outputs.
- Identify the length of time that the affirmative rights or restrictive covenants are needed for the project.
- Determine whether constructed project features may need to be modified over time due to uncertainties in science, formulation, or design (adaptive management).
- Determine whether project land, or portions thereof, will be open for public use (either active or passive uses).

Other factors to be considered:

- Compare the cost/value of specific types of easements to fee value.
- Assess potential for severance damages from fee acquisition.
- Determine whether public owners have legal capability to convey fee.
- Assess stewardship operation, maintenance, repair, rehabilitation, and replacement considerations regarding the risk and consequences of encroachment on project land by adjacent owners; the risk and consequences of violation of easement terms by fee owners; and monitoring and enforcement capabilities of sponsor.
- Assess negative perception by public of private benefits or gain due to landowner reservations where easements are selected.

- Assess whether State Marketable Title Act requires re-recording of easement instruments-the Marketable Record Title Act has been amended to exempt State Agencies from the requirements of the act.

The majority of land required for CEPP was previously acquired in conjunction with the C&SF Project; therefore, most of the above criteria are not applicable and are therefore not addressed due to the nature of the project lands or the interests held in the lands by the SFWMD.

D.11.2 A-2 FEB Compartment A-Talisman Exchange

D.11.2.1 A-2 FEB

The A-2 FEB will be operated essentially as a reservoir; therefore, all the lands within the footprint will be required in fee. The project footprint of the A-2 FEB and structures requires approximately 13,849.34 acres of Compartment A, of which 13,839.44 acres were acquired in the Talisman Exchange. The remaining approximately 9.90 acres in Compartment A was acquired by SFWMD using State funds.

D.11.2.2 A-2 FEB Outflow Canal

The SFWMD has also acquired lands in Section 35, Township 46 South, Range 35 East, as part of the Talisman Exchange, where a portion of the proposed FEB Outflow Canal from the Miami Canal to the Reservoir will be constructed, consisting of approximately 34.23 acres.

The State of Florida owns fee to that portion of Section 36, Township 46 South, Range 35 East where the remaining portion of the proposed FEB Outflow Canal from the Miami Canal to the A-2 FEB will be constructed, consisting of approximately 57.02 acres. These lands will be acquired by SFWMD from the State, either through direct acquisition from the State or by Supplemental Agreement with the State, prior to construction of the FEB Outflow Canal and after execution of the Project Partnership Agreement (PPA); SFWMD will receive its actual acquisition costs.

D.11.3 Analysis of Estates owned by the SFWMD in WCA 3A/3B, Levees, and Canals previously acquired and provided for the C&SF Project

SFWMD owns a variety of different interest in WCA 3A/3B which were previously acquired and provided as an item of local cooperation for the original C&SF Project. SFWMD owns sufficient interests in these lands for the construction of these project features. As set forth below, SFWMD owns fee or a perpetual easement. Where SFWMD owns a perpetual easement, either the State of Florida or private parties own the underlying fee title. During the PED Phase, as more details are provided for the exact location of each of these features, the interest owned by SFWMD will be evaluated to determine if a greater interest is required. SFWMD will not receive credit for the provision of these lands unless a greater interest is required and then only for the difference in value between the interest provided for the C&SF project and that required for CEPP.

SFWMD owns fee to approximately 134,280.95 acres in WCA 3A/3B.

The SFWMD was conveyed Canal and Levee right-of-way easements from the State of Florida over approximately 11,598.84 acres. These canal and levee easements are tantamount to fee. They provide the following: "NOW, THEREFORE, to facilitate Central and Southern Florida Flood Control District in carrying out the purposes for which said district was created, the State of Florida, in the public interest and for the public convenience and welfare, and for the public benefit, have granted and conveyed unto Central and Southern Florida Flood Control District a perpetual easement for the right-of-way for the works of the district, the construction, operation and maintenance of same, over and across the lands hereinafter described, and grants the further right to said District to convey to the United States of America in connection with the District's purposes, the rights herein granted to said district by said Trustees."

SFWMD also acquired perpetual easements from private parties over approximately 70,612.53 acres. These easements conveyed to the predecessor of the SFWMD contain the following language: "...the right, privilege, use and easement in and to the lands hereinafter described for any and all purposes necessary to the construction, maintenance and operation of any project in the interest of flood control, reclamation, conservation and allied purposes now or that may hereafter be conducted by the grantee herein, its successors or assigns, including the right to permanently or intermittently flood all or any part of the area covered hereby as a result of the said construction, maintenance, or operation, in carrying out the purposes and intents of the statutes of the State of Florida relating to the Central and Southern Florida Flood Control District presently existing or that may be enacted in the future pertaining hereto." These lands are still owned in fee by private parties; however, their rights in these lands are minimal.

The State of Florida, through the Trustees of the Internal Improvement Trust Fund conveyed perpetual easements over approximately 300,343.52 acres within the WCA 3A/3B. While the State of Florida still retains the fee title to these lands, the estate conveyed to SFWMD predecessor is as follows: "...the right, privilege, use and easement in and to the lands hereinafter described for any and all purposes necessary to the construction, maintenance and operation of any project in the interest of flood control, reclamation, conservation and allied purposes now or that may hereafter be conducted by the grantee herein, its successors or assigns, including the right to permanently or intermittently flood all or any part of the area covered hereby as a result of the said construction, maintenance, or operation, in carrying out the purposes and intents of the statutes of the State of Florida relating to the Central and Southern Florida Flood Control District presently existing or that may be enacted in the future pertaining hereto."

The SFWMD was also conveyed surface rights over approximately 73,360 acres in WCA 3A/3B by the State Board of Education of the State of Florida. The rights conveyed to SFWMD predecessor was "...for the purposes for which the District was created, the surface rights to the lands hereinafter described, including the right to permanently or intermittently flood all or any part of said land within established water conservation areas, and to construct, operate and maintain works of flood control thereon;". The State Board of Education of the State of Florida later conveyed the fee title to all these lands to the State of Florida Trustees of the Internal Improvement Trust Fund. These estates and interest owned by the SFWMD are sufficient for CEPP Project purposes.

For the approximately 325 acres required along the L-31N right-of-way, SFWMD owns fee title.

D.12 PROPOSED STANDARD ESTATES

D.12.1 Fee

The fee simple title to (the land described in Schedule A), subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

While is anticipated that only fee title will be required for the A-2 FEB; and fee or perpetual channel easement for the A-2 FEB Canal, the following standard estates may be identified as required during the PED Phase of the Project.

D.12.2 Temporary Access Road Easement

A temporary and assignable easement and right-of-way in, on, over, and across (the land described in Schedule A) for a period not to exceed (PERIOD TO BE DETERMINED) for the location, construction, operation, maintenance, alteration, replacement and use of (an) access road(s) and appurtenances thereto; together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions and other vegetation, structures, or obstacles within the limits of the right-of-way; (reserving however, to the owners, their heirs and assigns, the right to cross over or under the right-of-way as access to their adjoining land at the locations indicated in Schedule B); subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

D.12.3 Channel Improvement Easement

A perpetual and assignable right and easement to construct, operate, and maintain channel improvement works on, over and across (the land described in Schedule A) for the purposes as authorized by the Act of Congress approved (FUTURE WRDA TO BE ENTERED), including the right to clear, cut, fell, remove and dispose of any and all timber, trees, underbrush, buildings, improvements and/or other obstructions therefrom; to excavate: dredge, cut away, and remove any or all of said land and to place thereon dredge or spoil material; and for such other purposes as may be required in connection with said work of improvement; reserving, however, to the owners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements far public roads and highways, public utilities, railroads and pipelines.

D.12.4 Temporary Work Area Easement

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A), for a period not to exceed (PERIOD TO BE DETERMINED), beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and waste material thereon) (move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the Central Everglades Planning Project, together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the

rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

D.12.5 Borrow Area Easement

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A), for a period not to exceed (PERIOD TO BE DETERMINED), beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and waste material thereon) (move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the Central Everglades Planning Project, together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines

D.13 UNIFORM RELOCATION ASSISTANCE ACT, PL 91-646

The appropriate relocation benefits were included as part of the Talisman Exchange/acquisition agreement for the land in A-2 FEB and therefore these costs were not costed separately. Under PL 91-646, as amended, there are no additional residential relocations and no business relocations associated with the implementation of this Project.

The USACE prepared a General Design Memorandum (GDM) and EIS for MWD to ENP. The overall purpose of the MWD to ENP project is to restore natural hydrologic conditions in ENP, which were altered by the construction of roads, levees and canals. MWD is one of many foundation projects for CERP. The GDM/EIS was completed in 1992 and concluded that the raising of the Osceola Indian Camp to the levels above expected flood levels was determined to be the responsibility of the Department of Interior (DOI) since the camp is within the boundaries of the Everglades National Park Expansion Area.

As a result of the 2009 Omnibus Appropriations Act passed by Congress on March 10, 2009 (Public Law 111-8) Congress directed the National Park Service (NPS) “to immediately evaluate the feasibility of additional bridge length, beyond that to be constructed pursuant to the Modified Water Deliveries (MWD) to Everglades National Park Project (16 U.S.C. SS 410r-S), including a continuous bridge, or additional bridges or some combination thereof, for the Tamiami Trail (U.S. Highway 41) to restore more natural water flow to ENP and Florida Bay and for the purpose of restoring habitat within the Park and the ecological connectivity between the Park and the Water Conservation Areas.”

DOI produced the Tamiami Trail Modifications: Next Steps Final Environmental Impact Statement November 2010, with a Record of Decision signed February 11, 2011

DOI selected Alternative 6e as the recommended plan. Alternative 6e includes 5.5 miles of bridges and the remaining highway raised to an elevation of 13.13 feet. The bridge configurations include: (1) a 2.60 mile bridge located between the Osceola Camp and the Airboat Association, (2) a 0.4 mile bridge located between the Airboat Association and the Tiger Tail Camp, (3) a 1.8 mile bridge located between the Tiger Tail Camp and the existing one-mile bridge, and (4) a 0.7 mile bridge located between the existing 1-mile bridge and the S-334 structure. The bridges would create a conveyance opening through Tamiami Trail by removing the sections of the existing highway and embankment. The bridges would be constructed approximately 50 feet south of the existing roadway ROW to maintain motor vehicle traffic during bridge construction and avoid impacts to infrastructure north of the project area. The remaining highway embankment would be reconstructed to raise the crown elevation to 13.13 feet.

Alternative 6e of the Tamiami Trail Modifications: Next Steps would require the Osceola Camp ground to be elevated to 12.5, with non-residential finished floor to 12.83 and residential finished floor to 13.17 feet NGVD. DOI will be responsible as part of the implementation of the Tamiami Trail Modifications: Next Steps to raise the Osceola Camp to the levels above expected flood levels.

D.14 NAVIGATIONAL SERVITUDE AND OTHER LANDS

The navigation servitude is not applicable to the Project.

D.15 ACCESS TO PROJECT AREAS

NORTH OF THE REDLINE—FLOW EQUALIZATION BASIN -Access to this area is from US 27 utilizing the A-1 FEB access road that connects the northeast corner of the A-1 FEB to the recreation area by culverts. There is an existing east-west road “Central Agricultural Road” that could provide direct access to the A-2 FEB footprint, but this is projected to be degraded for the A-1 FEB project. If new haul roads are needed, they will have to divert from the nearest public road and will be limerock displacing the underlying peat materials.

SOUTH OF THE REDLINE—DIVERSION & CONVEYANCE-Access to this project area is primarily from US 27 along the existing L-5 northern access road westward to existing S-8, L-4 and Miami Canal. Access to L-6 is from US 27 along the existing S-7 complex and L-6 areas. Due to the remote nature of the Miami Canal, site access limitations could be a significant consideration for the CEPP project construction.

BLUELINE/GREENLINE/YELLOWLINE—DISTRIBUTION, CONVEYANCE & SEEPAGE MANAGEMENT-Access to the project site will be from US 41 (Tamiami Trail) by S-333 along L-67A, L-67C, L-29 and L-31N levees. Northern access into WCA 3B is from S-9 Pump Station or by Holliday Camp along the L67-A canal.

D.16 BORROW AND DISPOSAL SITES

NORTH OF THE REDLINE—FLOW EQUALIZATION BASIN-Cut and fill quantities will be completed during PED phase to balance the design as much as possible. Peat material will be utilized in backfilling the Miami Canal. Unsuitable material will be hauled to a certified land fill. If enough material is not available on site from the canal construction of C-624, C-624E, C-625E, C-625W, and

C-626 to provide suitable levee construction material for L-624 and L-625. Material will be brought from an offsite borrow area for construction of the remainder of the levees.

SOUTH OF THE REDLINE—DIVERSION & CONVEYANCE—Cut and fill quantities will be completed during PED phase to balance the design as much as possible. Material from the construction of canal, from Miami Canal to L-4 and the L-5 improvements, not suitable to fill in the Miami Canal will be hauled to a certified land fill. Material from the L-28 levee will be utilized to fill the L-28 canal.

BLUELINE/GREENLINE/YELLOWLINE—DISTRIBUTION, CONVEYANCE & SEEPAGE MANAGEMENT—L-67 extension (ext.) and Old Tamiami Trail removal will place the material in the adjacent canals. L-67C material may be used in the construction of L-67D or may be stockpiled adjacent to the L-67C canal. L-67D will be completed with material from onsite degradates within the vicinity of the project area first, then from L-31N Spoil Mound, L-29 removal or from an approved Borrow source. All peat material will be placed in either L-67 ext. or Old Tamiami Trail canal. Unsuitable material will be hauled to a certified land fill.

D.17 TEMPORARY WORK AREAS

Lands within the Project will be used for temporary work areas, as required. This will include borrow areas if deemed necessary.

D.18 INDUCED FLOODING

On December 11, 2000 the Water Resources Development Act of 2000 (WRDA 2000) was signed into law by the President of the United States (Public Law No. 106-541, of the 106th Congress). Section 601(h)(5) contains a Savings Clause that provides protection for existing legal sources of water that will be eliminated or transferred due to project implementation and no significant and adverse reduction in the level of service for flood protection that was in existence on the date of enactment and in accordance with applicable law.

The Programmatic Regulations for the Everglades (33 CFR §§ 385.5 and 385.35-37) require a programmatic guidance memorandum describing procedures for evaluating project effects on existing legal sources of water, and a determination of the pre-CERP baseline conditions, and procedures for evaluating project effects on “levels of service for flood protection ... in accordance with applicable law” existing on date of enactment of WRDA 2000.

To ensure the levels of service of flood protection will not be diminished by this Project, preliminary hydrologic and hydraulic analysis was performed using surface water and groundwater modeling. The results of the preliminary analysis indicate that the Project is not expected to result in increases in stages in canal systems or increases in flooding of private lands adjacent to the Project site; however, additional analysis will be undertaken during detailed design work to further identify Project features and operations necessary to ensure that the level of service of flood protection in areas adjacent to the Project site is maintained.

The purpose of CEPP is to increase flows in WCA 3A/3B and while this will be accomplished, no additional interests in lands in WCA 3A/3B will be required to allow the increase in flows. The estates held by the SFWMD for the C&SF project are sufficient to allow for increased flows. See

paragraph D.11 above. A takings analysis determined that no lands outside the project boundaries will be affected by the Project

D.19 MINERAL AND TIMBER ACTIVITIES

There are no known present or anticipated mineral or subsurface mineral extraction activities within the land required for the CEPP Project that may affect construction, operation, or maintenance of the Project. There are currently no timber-harvesting activities. Since the basis for the construction of the Project is to restore the ecosystem within the CEPP Project Area, such activities will be restricted or prohibited.

D.20 NON-FEDERAL AUTHORITY TO PARTICIPATE IN THE PROJECT

The SFWMD was created by virtue of Florida Statutes, Chapter 373, Section 373.069 to further the State policy of flood damage prevention, preserve natural resources of the State including fish and wildlife and to assist in maintaining the navigability of rivers and harbors. (There are other enumerated purposes but they are not directly applicable to this Project.) The SFWMD is specifically empowered to

Cooperate with the United States in the manner provided by Congress for flood control, reclamation, conservation, and allied purposes in protecting the inhabitants, the land, and other property within the district from the effects of a surplus or a deficiency of water when the same may be beneficial to the public health, welfare, safety, and utility. (Section 373.103)

To carry out the above purposes, the SFWMD is empowered to

...hold, control, and acquire by donation, lease, or purchase, or to condemn any land, public or private, needed for rights-of-way or other purposes, and may remove any building or other obstruction necessary for the construction, maintenance, and operation of the works; and to hold and have full control over the works and rights-of-way of the district.

The term works of the district is defined by Section 373.019 to be

...those projects and works, including, but not limited to, structures, impoundments, wells, and other water courses, together with the appurtenant facilities and accompanying lands, which have been officially adopted by the governing board of the district as works of the district.

Section 373.139 specifically empowers the SFWMD

...to acquire fee title to real property and easements therein by purchase, gift, devise, lease, eminent domain, or otherwise for flood control, water storage, water management, and preservation of wetlands, streams and lakes, except that eminent domain powers which may be used only for acquiring real property for flood control and water storage.

SFWMD has authority to act as the local sponsor for the CERP project pursuant to Florida Statutes Section 373.1501, the text of which is set forth on Exhibit “B” of this Appendix.

D.21 ZONING ORDINANCES

Preliminary investigation indicates that no enactments of zoning ordinances are proposed in lieu of, or to facilitate, acquisition in connection with the Project.

D.22 ACQUISITION SEQUENCING

Based upon the project implementation and sequencing information contained in Section 6.0 of the Project Implementation Report and after Congressional authorization of Project components, all construction activities will be on lands owned by the SFWMD and previously acquired for the C&SF project. After Congressional authorization of the Project components, lands will be certified or recertified in the order of sequence below:

1. Portions of L-6 right-of-way; S-8 lands; and portions L-4 right-of-way.
2. Portions of L-5 right-of-way; and portions of Miami Canal right-of-way.
3. Portions of L-67C right-of-way; S-356 and adjacent lands; and S-333 and adjacent lands.
4. Portions of L-29 right-of-way; portions of L-67A and L-67C rights-of-way; and lands required for the Blue Shanty Levee.
5. Portions of the L-31N right-of-way.
6. The SFWMD will be required to provide the lands for the A-2 FEB and FEB Outflow Canal. The SFWMD already owns all of the lands required for construction of the A-2 FEB and FEB Outflow Canal, except for approximately 57.02 acres required for the FEB Outflow Canal, which is owned by the State of Florida; and the SFWMD will obtain and certify this remaining interest.
7. The lands underlying the Old Tamiami Trail, which are owned by the United States of America, National Park Service, will be required. These lands will be provided to SFWMD by Permit from the National Park Service.

D.23 FACILITY AND UTILITY RELOCATIONS

Engineering cost estimates for the following facility and utility relocations were not provided for this Draft PIR, but were included in total construction costs. In the MCACES Cost Estimate, Non-Federal and Federal administrative costs for termination of permits and negotiation of relocation contracts were estimated.

Preliminary Attorney’s Opinions of Compensability have been completed and used for the purpose of completing this section. Final Attorney’s Opinions of Compensability will be completed as required by Engineering Regulation 405-1-12, chapter 12, paragraph 12-22 prior to completion of the Project Partnership Agreement or 100 percent design of the project.

NORTH OF THE REDLINE–FLOW EQUALIZATION BASIN–Utility Relocations–Florida Power and Light lines will have to be relocated or abandoned from the center of the detention area.

SOUTH OF THE REDLINE–DIVERSION & CONVEYANCE-Utility Relocations-Utility impacts, including potential relocations, will also need further assessment during the project design phase. The limited engineering design information that was incorporated into the development of the final array planning-level cost estimates is documented in Appendix B Cost Estimates.

BLUELINE/GREENLINE/YELLOWLINE–DISTRIBUTION, CONVEYANCE & SEEPAGE MANAGEMENT-Utility Relocations-Florida Power and Light, and Quest Communications will have to be relocated where the L-29 is being removed. The removal of Old Tamiami Trail will require relocation of the Florida Power and Light line.

ANY CONCLUSION OR CATEGORIZATION CONTAINED IN THIS REPORT THAT AN ITEM IS A UTILITY OR FACILITY RELOCATION TO BE PERFORMED BY THE NON-FEDERAL SPONSOR AS PART OF ITS LERRD RESPONSIBILITIES IS PRELIMINARY ONLY. THE GOVERNMENT WILL MAKE A FINAL DETERMINATION OF THE RELOCATIONS NECESSARY FOR THE CONSTRUCTION, OPERATION, OR MAINTENANCE OF THE PROJECT AFTER FURTHER ANALYSIS AND COMPLETION AND APPROVAL OF FINAL ATTORNEY'S OPINIONS OF COMPENSABILITY FOR EACH OF THE IMPACTED UTILITIES AND FACILITIES."

D.24 HAZARDOUS TOXIC OR RADIOLOGICAL WASTE (HTRW)

The Flow Equalization Basin (A-2 FEB) is a 14,000 acre parcel of land. The land is presently dry and it is proposed to be inundated with water. South Florida Water Management District (SFWMD) completed a draft Summary Environmental Report for the A-2 FEB, dated 21 August 2012. The Summary Environmental Report documents that all known point sources on the property have been addressed. The Florida Department of Environmental Protection (FDEP) has issued Site Rehabilitation Completion Orders (SRCO) for all known point sources within the project boundary. A copy of this report is included in **Annex F**.

To address the lack of sampling results for the cultivated areas of the A-2 parcel, the SFWMD conducted limited soil sampling in the winter/spring of 2013. With agreement of the USFWS, the sampling density was set at 10 percent of the 50 acre grids rather than the typical 30 to 50 percent typically specified per the *Protocol for Assessment, Remediation, and Post-Remediation Monitoring for Environmental Contamination on Everglades Restoration Projects* (the ERA Protocol), dated March 13, 2008 (A copy of this protocol is in **Annex F**). SFWMD analyzed 30 composite samples from the 14,000 acre site for pesticides, herbicides, total organic carbon and metals following a stratified random approach. The laboratory result indicate that some of the site soils have residual arsenic, barium, cadmium, chromium, copper, mercury, selenium, 2,4-D, atrazine, metribuzin, phorate, and dieldrin. The USFWS and FDEP have preliminarily determined that the residual agricultural chemicals found on the A-2 FEB lands do not present a risk to protected resources. Based on the results of the 2013 soil testing, the USFWS and FDEP are recommending that during the initial operations of the FEB, the SFWMD perform testing of water for several contaminants (2,4, D, atrazine, metribuzin, phorate, dieldrin, chromium, mercury, selenium, copper) as well as testing of periphyton and apple snails for copper. The FDEP also recommended the development of a soil management plan to address the fate of arsenic impacted soils during construction as well as the same start-up operations sampling program as provided by the USFWS. The FDEP and the USFWS both recommended that agrochemical best management practices be instituted during the continued cultivation of the lands.

The A-2 FEB lands will remain in agricultural production for several years until the A-2 project feature is set for construction at which time the agricultural leases will be terminated. Once farming has ceased on the project lands, an Exit Assessment will be performed to determine the presence of any new potential sources of HTRW since the completion of the previous Phase II ESA, and to verify the concentration of contaminants in the cultivated areas at selected locations. The results of these audits will be provided to the FDEP and USFWS for their review, comment, and concurrence regarding the need for remedial actions. The assessment of the project in relation to the CERP Residual Agricultural policy is included in **Appendix C.2.2**.

D.25 PROJECT SUPPORT

There is no known or anticipated opposition to the project by landowners in the project area or any known or anticipated landowner concerns related issues that could impact the acquisition process.

D.26 LAND VALUATION AND CREDITING

D.26.1 Land Valuation and Crediting Guidance

D.26.1.1 CECW-SAD Memorandum dated July 30, 2009; SUBJECT: CERP Land Valuation and Crediting

In accordance with CECW-SAD memorandum dated July 30, 2009 signed by the Director of Civil Works, U.S. Army Corps of Engineers the current guidance for the CERP, Land Valuation and Crediting as set forth in the referenced memorandum is as follows:

1. Background. The Comprehensive Everglades Restoration Plan (CERP) land valuation and crediting policy previously approved by the Assistant Secretary of the Army (Civil Works) (ASA(CW)) is based on actual costs. The South Florida Water Management District (SFWMD) requested application of the national U.S. Army Corps of Engineers (USACE) land crediting principles to future CERP projects and the ASA(CW) has agreed to SFWMD's request. The purpose of this memorandum is to provide general guidance on several additional issues as outlined in paragraph 2 below as well as to provide guidance on an issue related to credit for incidental acquisition costs as outlined in paragraph 3 below.

2. Land Valuation Issues for Lands Acquired Pre-PPA.

- a. Consistent with long-standing USACE practice, and as supported by the unique land credit provision for CERP contained in Section 601 (e)(5)(A) of WRDA 2000, tracts acquired by the SFWMD that are acquired and provided in furtherance of a CERP project should be valued and credited as individual tracts regardless of whether the acquisition was prior to or after execution of the PPA for that project. This general principle would not apply where the SFWMD acquired contiguous tracts that are required for a CERP project but it acquired such tracts prior to the PPA for a reason and use other than for implementation of the CERP project. A determination that a tract was acquired "in furtherance of a CERP project" should be supported by documentation existing at the time of acquisition.

- b. The unique statutory land credit provision for CERP projects is clear that the non-Federal sponsor will be afforded credit for the value of lands, or interests in lands, that it provides in accordance with a PIR "regardless of the date of acquisition." See Section 601 (e)(5)(A) of WRDA

2000. To effectuate the clear intent of Congress reflected in this credit provision, land use restrictions imposed in furtherance of a CERP project after acquisition of a tract by the SFWMD should not be considered in valuing that tract for crediting purposes.

c. For the same reasons as expressed in subparagraph b. above, demolition of improvements after a tract was acquired in furtherance of a CERP project should not change the approach to value from that applicable at the time of acquisition. Accordingly, the tract should be valued for crediting purposes as it was improved when acquired by the SFWMD. To accomplish this result, the contributory value of the improvements, as of the date of the SFWMD's acquisition, should be added to the market value of the land on the date it is provided for the project as appraised in accordance with its highest and best use on the date of acquisition.

3. Incidental Costs. The SFWMD has requested that it be afforded credit for the costs incurred by other non-Federal governmental entities incidental to acquisition of project lands by such entities. The wording of Section 601 (e)(5)(A) is clear that credit may be afforded only for "incidental costs for land acquired by a non-Federal sponsor." Credit may be afforded for traditional incidental acquisition costs that are incurred by SFWMD (such as appraisal costs, mapping costs, or relocation assistance benefits) as well as costs actually incurred by SFWMD in obtaining the required real property rights from other non-Federal governmental entities. However, to be eligible for credit to be afforded to the SFWMD for incidental acquisition costs, SFWMD must have, in fact, incurred those costs.

D.26.1.2 CERP Master Agreement Between the Department of the Army and the South Florida Water Management District for Cooperation in Constructing and Operating, Maintaining, Repairing, Replacing and Rehabilitating Authorized Projects under the Comprehensive Everglades Restoration Plan, dated August 13, 2009

In accordance with the terms and conditions of Article IV, paragraph A. no credit shall be afforded for those lands or real estate interests provided by the SFWMD as an item of local cooperation for another Federal project:

However, no amount shall be included *in project construction costs*, no credit shall be afforded, and no reimbursement shall be provided for the value of any lands, easements, rights-of-way, or *relocations* that have been provided previously as an item of cooperation for another Federal project.

In accordance with the terms and conditions of Article IV, paragraph D.1.a. for those lands or real estate interests acquired by the State of Florida prior to the effective date of the Project Partnership Agreement, the real estate interests are valued as follows:

a. Real Estate Interests Acquired Before the Effective Date of the PPA and Government Performs Construction: The fair market value of lands, easements, or rights-of-way owned by the Non-Federal Sponsor on the effective date of the PPA for the *authorized CERP Project*, or owned by the State of Florida or another Florida governmental entity on the effective date of such PPA (and obtained by the Non-Federal Sponsor and dedicated to the *authorized CERP Project* as described in Article III.E. of this Master Agreement), that are required for construction by the

Government, shall be the fair market value of such real property interests as of the date the Non-Federal Sponsor provides the Government with authorization for entry thereto for construction.

D.26.1.3 WRDA 2000 Section 601(E)(3)

Section 601 (E)(3) of the WRDA 2000, (PL 106-541) details the cost sharing related to Federal funds provided to the non-Federal sponsor applicable to the acquisition of lands required for CERP projects:

“(e) COST SHARING.

(3) FEDERAL ASSISTANCE.

(A) IN GENERAL.--The non-Federal sponsor with respect to a project authorized by subsection (b), (c), or (d) may use Federal funds for the purchase of any land, easement, rights-of-way, or relocation that is necessary to carry out the project if any funds so used are credited toward the Federal share of the cost of the project.”

D.26.2 Talisman Exchange-SFWMD Lands

In March 1999, Department of Interior (DOI), SFWMD, The Nature Conservancy, United States Sugar Corporation, Okeelanta Corporation, South Florida Industries, Inc., Florida Crystals Corporation, Sugar Cane Growers Cooperative of Florida, Talisman Sugar Company and the St. Joe Company executed an “Exchange and Purchase and Sale Agreement” for the purpose of effecting transactions in which landowners in the EAA would sell lands to, or exchange lands with, other such landowners and the SFWMD so that the SFWMD would own contiguous parcels of land in the southern portion of the EAA for the purposes of Everglades restoration. The end result of the purchase and exchange was that the SFWMD obtained over 45,000 acres of land in the southern Everglades Agricultural Area. The DOI provided \$99,434,312 in Federal Farm Bill funds for the acquisition of these lands and the SFWMD provided \$12,939,906. As part of the Talisman Lands Exchange transaction, part of SFWMD funds that were contributed totaling \$9,756,881.31 was to buy out the farming reservation held by the St. Joe Paper Company. As per the terms of the Cooperation Agreement between the SFWMD and the DOI, SFWMD elected to apply program income revenue towards the repayment of its contribution. SFWMD has received and applied program income revenue towards its contribution and land management costs which has or will cover all of the \$9,756,881.31. SFWMD will continue to provide financial reports to the DOI until such time as program income revenue is no longer received for the grant lands. As part of the Talisman Exchange, DOI had the properties appraised, reviewed and approved the appraisals, and was instrumental in negotiating the Exchange and Purchase and Sale Agreement, as well as executing the agreement. Because DOI funds were expended for the purchase of the lands required for the majority of the A-2 FEB and 34.23 acres of the FEB Outflow Canal, the USACE will accept the land costs paid by both DOI and SFWMD and these will be credited to either the Federal government or the SFWMD without review and approval of appraisals or other documentation. Pursuant to both Section 601 (E)(3) of the WRDA 2000, the Framework Agreement, and Article II., paragraph M.2., the DOI funds will be credited to the Federal

share of the Project. As set forth in the Framework Agreement, the credit is the actual acquisition costs of the lands required for the Project.

In total, Compartment A, located between the Miami and North New River Canals, consists of 31,493.72 acres, with 30,507.42 acres having been acquired in the Talisman exchange/acquisition. The project footprint of the A-2 FEB and structures requires approximately 13,839.44 acres, which were acquired in the Talisman exchange. The FEB Outflow Canal requires approximately 34.23 acres in lands west of Compartment A, which were acquired in the Talisman exchange. The DOI contributed approximately \$30,220,406 for the acquisition of the lands in the A-2 FEB and approximately \$78,801 to the acquisition of the 34.23 acres required for the FEB Outflow Canal. Additionally, DOI contributed approximately \$163,750 for a leasehold buyout. These amounts will be credited to the Federal share of the project cost. SFWMD contribution toward the acquisition of the A-2 FEB, which was not repaid by program income, totals approximately \$1,366,352. SFWMD contribution toward the acquisition of the approximately 34.23 acres required for the FEB Outflow Canal, which was not repaid by program income, totals approximately \$10,246. These amounts will be credited to the non-Federal share of the project cost. The SFWMD holds fee title to these lands.

D.26.3 Other SFWMD Lands Required for A-2 FEB

SFWMD acquired approximately 9.90 acres within the A-2 FEB with State funds. These lands were valued at \$12,500 per acre for a total of \$123,750 in a Gross Appraisal. In accordance with Article IV, paragraph D.1.a. of the Master Agreement, the credit for lands acquired prior to the PPA shall be the fair market value of such real property interests as of the date the Non-Federal Sponsor provides the Government with authorization for entry thereto for construction.

D.26.4 State of Florida Lands

The State of Florida owns fee to that portion of Section 36, Township 46 South, Range 35 East where the remaining portion of the proposed FEB Outflow Canal from the Miami Canal to the A-2 FEB will be constructed, consisting of approximately 57.02 acres. These lands will be acquired by SFWMD, either through direct acquisition from the State or by Supplemental Agreement with the State, from the State prior to construction of the FEB Outflow Canal. If the lands are acquired prior to the execution of the PPA, the credit will be the fair market value as of the date the Non-Federal Sponsor provides the Government with authorization for entry thereto for construction. If these lands are acquired after execution of the PPA; SFWMD will receive its actual acquisition costs. These lands were valued at \$12,500 per acre for a total of \$712,750 in a Gross Appraisal.

D.26.5 WCA 3A/3B Lands

SFWMD owns a variety of different interests in WCA 3A/3B which were previously acquired and provided as an item of local cooperation for the original C&SF Project. SFWMD owns sufficient interests in these lands for the construction of CEPP features. Where SFWMD owns a perpetual easement, either the State of Florida or private parties own the underlying fee title. During the PED Phase, as more details are provided for the exact location of each of these features, the interest owned by SFWMD will be evaluated to determine if a greater interest is required. SFWMD will not receive credit for the provision of these lands unless a greater interest is required and then only for

the difference in value between the interest provided for the C&SF project and that required for CEPP.

D.26.6 L-31N Lands

SFWMD owns fee title to the lands required along the L-31N which were previously acquired and provided as an item of local cooperation for the original C&SF Project. SFWMD will not receive credit for the provision of these lands.

D.27 BASELINE COST ESTIMATES AND MCACES COST ESTIMATES

Real estate cost estimates are based on the actual SFWMD acquisition costs and administrative costs provided by SFWMD and approved by Department of Interior and the estimated value of the State lands. **Table D-1** provides the Baseline Cost Estimate for Real Estate costs and Table D-2 provides the current MCACES cost estimate.

In draft EC405-1-04 CHAPTER 4, APPRAISAL, dated October 2008 paragraph 4-21. Gross Appraisals, subparagraph d. The term Incremental Real Estate Costs has replaced the term Contingencies. Incremental costs represent anticipated costs above the estimated market value of the project lands. Draft EC405-1-04 Chapter 4, APPRAISAL, dated October 2008, paragraph 4-21 provides: These are added costs that were formerly captured as contingencies. Incremental item costs should be evaluated and explained. Appraisers may consider lumping these cost estimates together depending on the level of study detail. However, having them as separate items may foster better understanding and easier revisions to future study effort on this same project. The term Incremental real estate costs include (but are not limited to) the following:

- a. Potential uneconomic remnants: \$xxxx
- b. Unknowns for level of study definition: \$xxxx (The lower the level of mapping and project clarity the higher this incremental element should be.)
- c. Unforeseen aspects due to inaccessibility: \$xxxx
- d. Cost / value increases from potential development pressures and/or zoning changes: \$xxxx
- e. Negotiation latitude above estimated market value: \$xxxx
- f. Potential for excessive condemnation costs/awards: \$xxxx
- g. Potential for unknown natural resources or minerals: \$xxxx
- h. Other incremental costs (please identify): \$xxxx

The lands required for CEPP is composed of following five components:

- a. The A-2 FEB comprised of approximately 13,849.34 acres of which only 9.9 acres were valued in the Gross Appraisal at \$12,500 per acre;
- b. The A-2 C-625W FEB Outflow Canal from the A-2 FEB to the Miami Canal comprised of approximately 91.25 acres of which only 57.02 acres were valued in the Gross Appraisal at \$12,500 per acre; and
- c. WCA3A/3B including adjacent canals and levees comprised of approximately 590,196 acres none which were valued.
- d. L-31N right-of-way comprised of approximately 325 acres which were not valued.
- e. The right-of-way of the Old Tamiami Trail owned by the DOI, NPS, which was not valued.

INCREMENTAL REAL ESTATE COSTS

a. Potential uneconomic remnants: These are parcels of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the taking agency has determined little to no value or utility to the owner. Since the lands valued are owned by the SFWMD (A-2 FEB) or State (FEB Outflow Canal), the remaining lands can still be leased and used for agricultural purposes, leaving the potential of remnants unlikely. No incremental real estate cost was applied.

b. Unknowns for level of study definition: This could include, but not limited to, later refinement of boundary lines due to ownership verification, preliminary level of mapping, lack of legal descriptions, etc. The Central Everglades Planning Project (CEPP) is a piece of the restoration of the Comprehensive Everglades Restoration Project. The appraiser verified ownership and "estates" of the project lands in question, and in his opinion, the level of study definition is appropriate and conclusive. The footprint of the A-2 FEB and FEB Outflow Canal have been defined. While it is anticipated that all material to construct the project features will be from onsite material, there is a potential that offsite borrow areas may be required. An incremental cost of \$200,000 is added for the potential offsite borrow areas. An incremental Real Estate cost of \$200,000 was applied.

c. Unforeseen aspects due to inaccessibility: Access to the areas designated as South of the Redline and Blue/Green/Yellowline will not be an issue. Access to the A-2 FEB is from US 27 utilizing the A-1 FEB access road that connects the northeast corner of the A1 to the recreation area by culverts. There is an existing east-west road "Central Agricultural Road" that could provide direct access to the A-2 FEB footprint, but this is projected to be degraded for the A-1 FEB project. There is a potential that temporary new haul roads may be needed for access to the A-2 FEB, they will divert from the nearest public road, estimated at up to 40 acres. The access road would be located on lands owned by SFWMD and not utilized for either the A-1 or A-2 FEBs. Therefore an incremental cost of \$500,000 is added for the potential temporary haul roads. An incremental Real Estate cost of \$500,000 was applied.

d. Cost/value increases from potential development pressures and/or zoning changes: Most of the acreage required for the A-2 FEB and FEB Outflow Canal were acquired using Farm Bill funds and State funds. However, the following analysis is in reference to the approximately 57.02 acres owned by the State of Florida and to the 9.90 acres owned by the SFWMD but acquired with only State funds. This refers to the significant time from the preliminary planning stage to any level of implementation or construction of project. As well documented, the real estate market experienced unprecedented growth between 2002 and 2005. The demand for development land, as well as speculative land, was tremendous during this period with land prices often increasing by several percent per month. Demand for developable land began to soften in early 2006, after peaking at the end of 2005. Housing prices, due to high land values, remained artificially high and then began dramatic declines in late 2006 and early 2007. Because much of the demand for large agricultural parcels was being fueled by speculators, this market also saw demand dry up. In addition to the absent demand for developable property, the highly speculative wetland market dried up. Values have declined dramatically in some areas back to prices not seen since the late nineties. However, current real estate property values appear to be stabilizing after several years of a declining market. Real estate prices appear to be at the end of the decline, or near bottom, but the evidence of this will not be known until several months after prices start going up. The market is forecasted by most economists to recover this year and to start appreciation at more realistic rates in the future. The appraiser selected a value at the higher end of the price indication range, and has added an

incremental Real Estate cost of 25% or \$209,125 to reflect the potential of increasing land values on the approximately 57.02 owned by the State of Florida which has not been acquired but were valued at \$12,500 per acres and the 9.90 acres owned by the SFWMD acquired with State funds and valued at \$12,500 per acre. Total estimated value of these lands was \$836,500.

e. Negotiation latitude above estimated market value: This refers to the bargaining of sale price above any indication of market value. The State of Florida holds fee title to the remaining approximately 57.02 acres required for the FEB Outflow Canal, which will be acquired by the SFWMD. It is not anticipated that this acquisition from the State would present any problem; therefore no negotiation latitude is necessary. No incremental real estate cost was applied.

f. Potential for excessive condemnation costs/awards: Condemnation will not be necessary to acquire the lands owned by the State of Florida. No incremental real estate cost was applied.

g. Potential for unknown natural resources or minerals: SFWMD and State has already acquired mineral or natural resources rights when acquiring the properties required by the project. No incremental real estate cost was applied.

h. Other incremental costs: The properties to be utilized for the A-2 FEB and FEB Outflow Canal are leased from the SFWMD and the State of Florida (TIITF) to sugar cane and vegetable growers. These leases are typically 20 years in term at approximately \$300 per acre. Lands required for construction of the A-2 FEB and FEB Outflow Canal are leased until 2016 and while they may be renewed, the termination costs should be reduced or eliminated; however, the potential for termination costs still exists. The estimated termination cost of \$192,000 per lease; there are two, for total estimated costs of \$384,000. All the lands in the FEB are owned by SFWMD and either leased or have reservations with terms that expire prior to 2019. These lands will be leased in the interim period between current expiration and the time the lands are required for the Project. A potential exists for termination fees which are estimated at \$716,000. Total estimated termination costs were estimated at \$1,100,000.

i. Other Incremental Costs: SFWMD also acquired perpetual easements from private parties over approximately 70,612.53 acres. These easements conveyed to the predecessor of the SFWMD contain the following language: "...the right, privilege, use and easement in and to the lands hereinafter described for any and all purposes necessary to the construction, maintenance and operation of any project in the interest of flood control, reclamation, conservation and allied purposes now or that may hereafter be conducted by the grantee herein, its successors or assigns, including the right to permanently or intermittently flood all or any part of the area covered hereby as a result of the said construction, maintenance, or operation, in carrying out the purposes and intents of the statutes of the State of Florida relating to the Central and Southern Florida Flood Control District presently existing or that may be enacted in the future pertaining hereto." These lands are still owned in fee by private parties; however, their rights in these lands are minimal. There may be some of these lands in which the SFWMD may have to acquire the remaining fee interest of these private parties for the construction of project features. For planning purposes, only a total of 400 acres are estimated where fee would have to be acquired versus the existing perpetual easement. The estimated value of the existing perpetual easement estate is 95% of the fee. Utilizing the value of \$12,500 per acre for the fee value for the approximately 400 acres, the remaining 5% would be \$625 per acre or an incremental real estate cost of \$250,000.

j. Other Incremental Costs: Future Federal and Non-Federal Administrative costs-Future Federal Administrative costs are estimated at \$370,000 and include administrative costs associated with: Project Planning; Review of Sponsor Acquisition costs; Review of appraisals; Obtaining and review of Temporary Permits/rights-of-entry; Review of PPA; and Negotiating or review of Utility Relocation contracts. Future Non-Federal Administrative Costs are estimated at \$630,000 and include Sponsor Acquisition costs; Costs and review of appraisals; Obtaining Temporary Permits/rights-of-entry; payment of damage claims; and Negotiating or review of Utility Relocation contracts. Total administrative costs are \$1,000,000 with an incremental real estate cost of 25% or \$250,000 applied.

TOTAL INCREMENTAL COSTS FOR CEPP is estimated at \$2,509,125

Table D-1: Baseline Cost Estimate

PROJECT: CENTRAL EVERGLADES PLANNING PROJECT					
DATE: August 2013					
LANDS AND DAMAGES:					
ESTATE	PARCELS	ACRES	LAND COST	FEDERAL	SFWMD
FEE-GRANT FEDERAL COST SHARED-ACQUIRED-DOI FARM BILL- A-2 FEB	7	13,839.44	\$31,586,758	\$30,220,406	\$1,366,352
FEE-SFWMD ACQUIRED FROM PRIVATE PARTY-A-2 FEB	1	9.90	\$123,750		\$123,750
FEE-FEB OUTFLOW CANAL FROM A-2 FEB WEST TO MIAMI CANAL-TIIF OWNED	1	57.02	\$712,750	\$0	\$712,750
FEE-FEB OUTFLOW CANAL FROM A-2 FEB WEST TO MIAMI CANAL FEDERAL COST SHARED-DOI FARM BILL	1	34.23	\$89,047	\$78,801	\$10,246
FEE-SOUTH FLORIDA WATER MANAGEMENT DISTRICT-ACQUIRED AND PROVIDED FOR ORIGINAL C&SF PROJECT	733	134,280.95	\$0		\$0
PERPETUAL FLOWAGE EASEMENT OWNED BY SFWMD-WITH FEE OWNED BY STATE-ACQUIRED AND PROVIDED FOR ORIGINAL C&SF PROJECT	525	300,343.52	\$0		\$0
PERPETUAL FLOWAGE EASEMENT OWNED BY SFWMD-WITH FEE OWNED BY PRIVATE PARTIES-ACQUIRED AND PROVIDED FOR ORIGINAL C&SF PROJECT	311	70,612.53	\$0		\$0
PERPETUAL CANAL EASEMENT OWNED BY SFWMD WITH FEE OWNED BY STATE-ACQUIRED AND PROVIDED FOR ORIGINAL C&SF PROJECT	33	11,598.84	\$0		\$0
SURFACE FLOWAGE RIGHTS- FLOWAGE EASEMENT OWNED BY SFWMD WITH FEE OWNED BY STATE-ACQUIRED AND PROVIDED FOR ORIGINAL C&SF PROJECT	113	73,360.00	\$0		\$0
FEE TITLE FOR L-31N LANDS ACQUIRED & PROVIDED FOR ORIGINAL C&SF PROJECT	1	325.00	\$0		\$0
SUBTOTAL	1726	604,461.43	\$32,512,305	\$30,299,207	\$2,213,098
IMPROVEMENTS	0		\$0		\$0
SEVERANCE:& MINERALS	0		\$0		
TOTAL LANDS AND DAMAGES			\$32,512,305	\$30,299,207	\$2,213,098
UTILITY RELOCATION	0		\$0		\$0
ACQ/ADMIN					
FUTURE FEDERAL			\$370,000	*	\$370,000
FUTURE NON-FEDERAL			\$630,000	*	\$630,000
PRIOR FEDERAL-FARM BILL			\$163,750	\$163,750	\$0
PRIOR NON-FEDERAL			\$501,061		\$501,061
PL 91-646 STATE			\$0		\$0
SUBTOTAL			\$34,177,117	\$30,832,957	\$3,344,160
INCREMENTAL REAL ESTATE COST			\$2,509,125	\$37,000	\$2,472,125
TOTAL ESTIMATED RE COST			\$36,686,242	\$30,869,957	\$5,816,285
TOTAL ESTIMATED RE COSTS (RD)			\$36,690,000	\$30,870,000	\$5,820,000

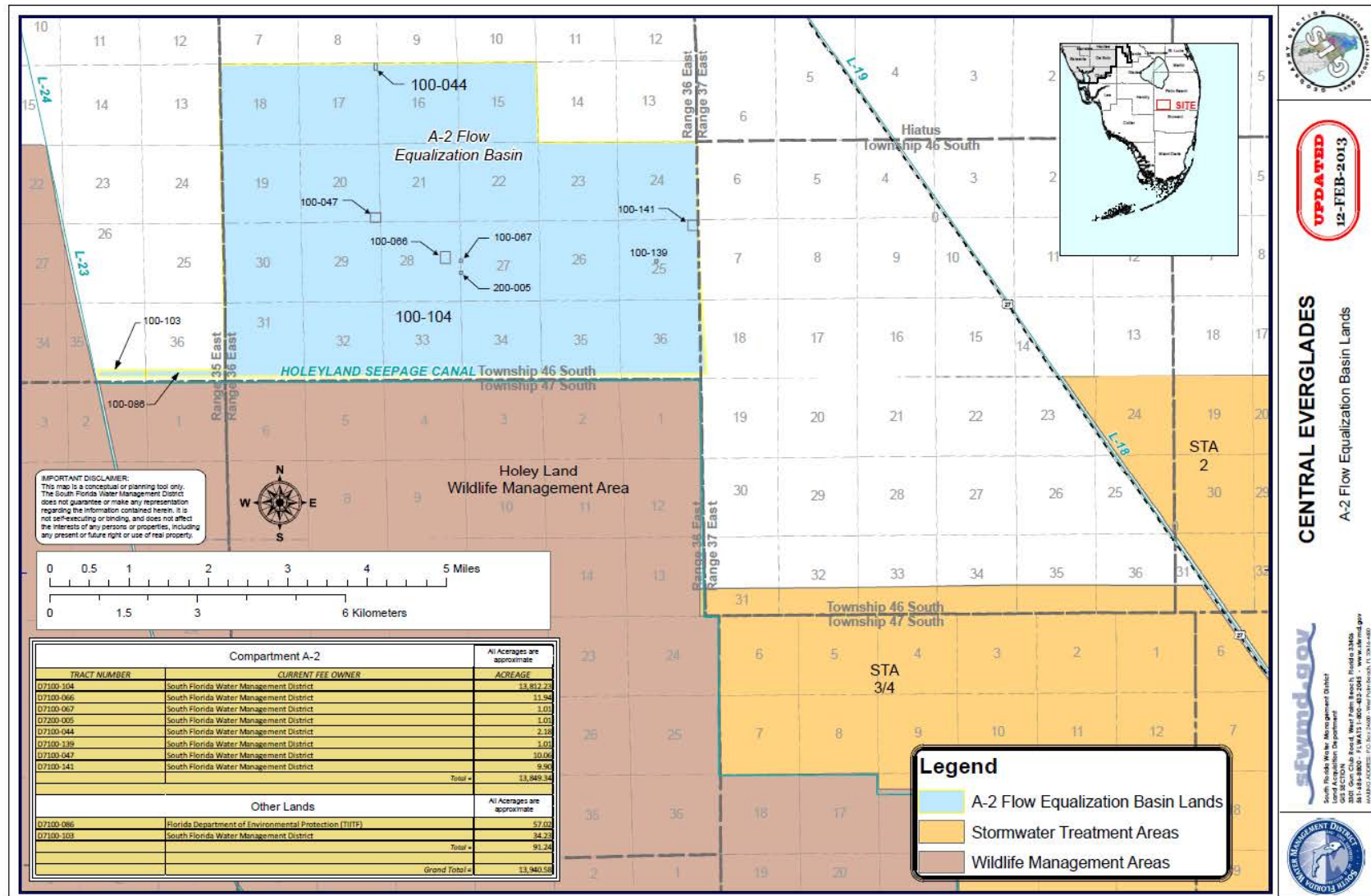
Table D-2: MCACES Cost Estimate for Real Estate Costs

DATE: August 2013							
1	LANDS AND DAMAGES					FEDERAL	SFWMD
01AA	PROJECT PLANNING			\$220,000		\$220,000	
01B--	ACQUISITIONS						
01B20	BY LOCAL SPONSOR (LS)-FUTURE			\$60,000			\$60,000
	BY LS-DOI FARM BILL			\$163,750		\$163,750	\$0
	BY LS -PRIOR			\$501,061			\$501,061
01B40	REVIEW OF LS			\$25,000		\$25,000	
01C--	CONDEMNATIONS						
01C20	BY LS			\$0			
01C40	REVIEW OF LS			\$0			
01E--	APPRAISALS						
1.00E+30	BY LS-FUTURE			\$150,000			\$150,000
1.00E+50	REVIEW OF LS			\$50,000		\$50,000	
01F--	PL 91-646 ASSISTANCE						
01F20	BY LS			\$0			
01F40	REVIEW OF LS			\$0		\$0	
01G--	TEMPORARY PERMITS /LICENCES/RIGHTS-OF-ENTRY						
01G20	BY LS			\$40,000			\$40,000
01G40	REVIEW OF LS			\$15,000		\$15,000	
01G60	DAMAGE CLAIMS			\$20,000			\$20,000
01M00	PROJECTED RELATED ADMINISTRATION						
	REAL ESTATE REVIEW OF PCA			\$20,000		\$20,000	
01N00	UTILITY RELOCATION			\$0	*	\$0	\$0
2100	BY LS-ADMINISTRATION			\$360,000		\$0	\$360,000
	REVIEW OF LS			\$40,000		\$40,000	
01R--	REAL ESTATE PAYMENTS						
01R1	LAND PAYMENTS						
01R1B	BY LS-STATE			\$123,750			\$123,750
	BY LS-FARM BILL			\$31,675,805		\$30,299,207	\$1,376,598
	BY LS-FUTURE			\$712,750		\$0	\$712,750
01R2	PL 91-646 ASSISTANCE PAYMENTS						
01R2B	BY LS-STATE			\$0			\$0
TOTAL REAL ESTATE COST W/O CONTINGENCY				\$34,177,116		\$30,832,957	\$3,344,159
INCREMENTAL REAL ESTATE COSTS				\$2,509,125		\$37,000	\$2,472,125
TOTAL PROJECT REAL ESTATE COST				\$36,686,241		\$30,869,957	\$5,816,284
TOTAL PROJECT REAL ESTATE COST (RD)				\$36,690,000		\$30,870,000	\$5,820,000

D.28 PROJECT MAPS

Figure D-7 is the SFWMD land acquisition map for the A-2 FEB and FEB Outflow Canal. **Figure D-8** is a map of the WCA 3A/3B affected by the Project.

Figure D-7: SFWMD FEB AND FEB OUTFLOW CANAL OWNERSHIP MAP



D.29 EXHIBIT "A"**SEC. 390. EVERGLADES ECOSYSTEM RESTORATION.**

(a) *IN GENERAL.*--On July 1, 1996, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide \$200,000,000 to the Secretary of the Interior to carry out this section.

(b) *ENTITLEMENT.*--The Secretary of the Interior (referred to in this section as the "Secretary")--

(1) shall be entitled to receive the funds made available under subsection (a);

(2) shall accept the funds; and

(3) shall use the funds to--

(A) conduct restoration activities in the Everglades ecosystem in South Florida, which shall include the acquisition of real property and interests in real property located within the Everglades ecosystem; and

(B) fund resource protection and resource maintenance activities in the Everglades ecosystem.

(c) *SAVINGS PROVISION.*--Nothing in this subsection precludes the Secretary from transferring funds to the Army Corps of Engineers, the State of Florida, or the South Florida Water Management District to carry out subsection (b)(3).

(d) *DEADLINE.*--The Secretary shall use the funds made available under subsection (a) for restoration activities referred to in subsection (b)(3) not later than December 31, 1999.

(e) *REPORT TO CONGRESS.*--For each of calendar years 1996 through 1999, the Secretary shall submit an annual report to Congress describing all activities carried out under subsection (b)(3).

(f) *SEPARATE AND ADDITIONAL EVERGLADES RESTORATION ACCOUNT.*--

(1) *ESTABLISHMENT.*--There is established in the Treasury a special account (to be known as the "Everglades Restoration Account"), which shall consist of such funds as may be deposited in the account under paragraph (2). The account shall be separate, and in addition to, funds deposited in the Treasury under subsection (a).

(2) *SOURCE OF FUNDS FOR ACCOUNT.*--

(A) *PROCEEDS FROM SURPLUS PROPERTY.*--

(i) *IN GENERAL.*--Subject to subparagraph (B), the Administrator shall deposit in the special account all funds received by the Administrator, on or after the date of enactment of this Act, from the disposal pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) of surplus real property located in the State of Florida.

(ii) *AVAILABILITY AND DISPOSITION OF FEDERAL LAND.*--

(I) *IDENTIFICATION.*--Any Federal real property located in the State of Florida (excluding lands under the administrative jurisdiction of the Secretary that are set aside for conservation purposes) shall be identified for disposal or exchange under this subsection and shall be presumed available for purposes of this subsection unless the head of the agency controlling the property determines that there is a compelling program need for any property identified by the Secretary.

(II) *AVAILABILITY.*--Property identified by the Secretary for which there is no demonstrated compelling program need shall, not later than 90 days after a request by the Secretary, be reported to the Administrator and shall be made available to the Administrator who shall consider the property to be surplus property for purposes of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(III) *PRIORITIZATION OF DISPOSITION.*--The Administrator may prioritize the disposition of property made available under this subparagraph to permit the property to be sold as quickly as practicable in a manner that is consistent with the best interests of the Federal Government.

(B) *LIMIT ON TOTAL AMOUNT OF DEPOSITS.*--The total amount of funds deposited in the special account under subparagraph (A) shall not exceed \$100,000,000.

(C) *EFFECT ON CLOSURE OF MILITARY INSTALLATIONS.*--Nothing in this section alters the disposition of any proceeds arising from the disposal of real property pursuant to a base closure law.

(3) *USE OF SPECIAL ACCOUNT.*--Funds in the special account shall be available to the Secretary until expended under this paragraph. The Secretary shall use funds in the special account to assist in the restoration of the Everglades ecosystem in South Florida through--

(A) subject to paragraph (4), the acquisition of real property and interests in real property located within the Everglades ecosystem; and

(B) the funding of resource protection and resource maintenance activities in the Everglades ecosystem.

(4) *STATE CONTRIBUTION.*--The Secretary may not expend any funds from the special account to acquire a parcel of real property, or an interest in a parcel of real property, under paragraph (3)(A) unless the Secretary obtains, or has previously obtained, a contribution from the State of Florida in an amount equal to not less than 50 percent of the appraised value of the parcel or interest to be acquired, as determined by the Secretary.

(5) *DEFINITIONS.*--In this subsection:

(A) *ADMINISTRATOR.*--The term "Administrator" means the Administrator of General Services.

(B) *BASE CLOSURE LAW.*--The term "base closure law" means each of the following:

(i) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(ii) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(iii) Section 2687 of title 10, United States Code.

(iv) Any other similar law enacted after the date of enactment of this Act.

(C) *EVERGLADES ECOSYSTEM.*--The term "Everglades ecosystem" means the Florida Everglades Restoration area that extends from the Kissimmee River basin to Florida Bay.

(D) *EXCESS PROPERTY.*--The term "excess property" has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(E) *EXECUTIVE AGENCY.*--The term "executive agency" has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(F) *SPECIAL ACCOUNT.*--The term "special account" means the Everglades Restoration Account established under paragraph (1).

(G) *SURPLUS PROPERTY.*--The term "surplus property" has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(g) *REPORT TO DETERMINE THE FEASIBILITY OF ADDITIONAL LAND ACQUISITION AND RESTORATION ACTIVITIES.*--

(1) *IN GENERAL.*--The Secretary shall conduct an investigation to determine what, if any, unreserved and unappropriated Federal lands (or mineral interests in any such lands) under the administrative jurisdiction of the Secretary are suitable *1025 for disposal or exchange for the purpose of conducting restoration activities in the Everglades region.

(2) *CONSERVATION LANDS.*--No lands under the administrative jurisdiction of the Secretary that are set aside for conservation purposes shall be identified for disposal or exchange under this subsection.

(3) *FLORIDA.*--In carrying out this subsection, the Secretary shall, to the maximum extent practicable, determine which lands and mineral interests located within the State of Florida are suitable for disposal or exchange before making the determination for eligible lands or interests in other States.

(4) *PUBLIC ACCESS.*--In carrying out this subsection, the Secretary shall consider that in disposing of lands, the Secretary shall retain such interest in the lands as may be necessary to ensure that the general public is not precluded from reasonable access to the lands for purposes of fishing, hunting, or other recreational uses.

(5) *REPORT.*--Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate describing the results of the investigation conducted under this subsection. The report shall describe the specific parcels identified under this subsection, establish the priorities for disposal or exchange among the parcels, and estimate the values of the parcels.

D.30 EXHIBIT "B"

FLORIDA STATUTES

TITLE XXVIII. NATURAL RESOURCES; CONSERVATION, RECLAMATION, AND USE CHAPTER 373.

WATER RESOURCES

PART I. STATE WATER RESOURCE PLAN

373.1501. South Florida Water Management District as local sponsor

(1) *As used in this section and s. 373.026(8), the term:*

(b) *"Department" means the Department of Environmental Protection.*

(c) *"District" means the South Florida Water Management District.*

(f) *"Project" means the Central and Southern Florida Project.*

(g) *"Project Component" means any structural or operational change, resulting from the restudy, to the Central and Southern Florida Project as it existed and was operated as of January 1, 1999.*

(h) *"Restudy" means the Comprehensive Review Study of the Central and Southern Florida Project, for which federal participation was authorized by the federal Water Resources Development Acts of 1992 and 1996 together with related Congressional resolutions and for which participation by the South Florida Water Management District is authorized by this section. The term includes all actions undertaken pursuant to the aforementioned authorizations which will result in recommendations for modifications or additions to the Central and Southern Florida Project.*

(2) *The Legislature finds that the restudy is important for restoring the Everglades ecosystem and sustaining the environment, economy, and social well-being of South Florida. It is the intent of the Legislature to facilitate and support the restudy through a process concurrent with Federal Government review and Congressional authorization. Nothing in this section is intended in any way to limit federal agencies or Congress in the exercise of their duties and responsibilities. It is further the intent of the Legislature that all project components be implemented through the appropriate processes of this chapter and be consistent with the balanced policies and purposes of this chapter, specifically s. 373.016.*

(4) The district is authorized to act as local sponsor of the project for those project features within the district as provided in this subsection and subject to the oversight of the department as further provided in s. 373.026. The district may:

- (a) Act as local sponsor for all project features previously authorized by Congress;*
- (b) Continue data gathering, analysis, research, and design of project components, participate in preconstruction engineering and design documents for project components, and further refine the Comprehensive Plan of the restudy as a guide and framework for identifying other project components;*
- (c) Construct pilot projects that will assist in determining the feasibility of technology included in the Comprehensive Plan of the restudy; and*
- (d) Act as local sponsor for project components.*

(5) In its role as local sponsor for the project, the district shall comply with its responsibilities under this chapter and implement project components through appropriate provisions of this chapter. In the development of project components, the district shall:

- (a) Analyze and evaluate all needs to be met in a comprehensive manner and consider all applicable water resource issues, including water supply, water quality, flood protection, threatened and endangered species, and other natural system and habitat needs;*
- (b) Determine with reasonable certainty that all project components are feasible based upon standard engineering practices and technologies and are the most efficient and cost-effective of feasible alternatives or combination of alternatives, consistent with restudy purposes, implementation of project components, and operation of the project;*
- (c) Determine with reasonable certainty that all project components are consistent with applicable law and regulations, and can be permitted and operated as proposed. For purposes of such determination:*

- 1. The district shall convene a pre-application conference with all state and federal agencies with applicable regulatory jurisdiction;*
- 2. State agencies with applicable regulatory jurisdiction shall participate in the pre-application conference and provide information necessary for the district's determination; and*
- 3. The district shall request that federal agencies with applicable regulatory jurisdiction participate in the pre-application conference and provide information necessary for the district's determination;*

(d) Consistent with this chapter, the purposes for the restudy provided in the Water Resources Development Act of 1996, and other applicable federal law, provide reasonable assurances that the quantity of water available to existing legal users shall not be diminished by implementation of project components so as to adversely impact existing legal users, that existing levels of service for flood protection will not be diminished outside the geographic area of the project component, and that water management practices will continue to adapt to meet the needs of the restored natural environment.

(e) Ensure that implementation of project components is coordinated with existing utilities and public infrastructure and that impacts to and relocation of existing utility or public infrastructure are minimized.

(6) The department and the district shall expeditiously pursue implementation of project modifications previously authorized by Congress or the Legislature, including the Everglades Construction Project. Project components should complement and should not delay project modifications previously authorized.

(7) Notwithstanding any provision of this section, nothing herein shall be construed to modify or supplant the authority of the district or the department to prevent harm to the water resources as provided in this chapter.

(8) Final agency action with regard to any project component subject to s. 373.026(8)(b) shall be taken by the department. Actions taken by the district pursuant to subsection (5) shall not be considered final agency action. Any petition for formal proceedings filed pursuant to ss. 120.569 and 120.57 shall require a hearing under the summary hearing provisions of s. 120.574, which shall be mandatory. The final hearing under this section shall be held within 30 days after receipt of the petition by the Division of Administrative Hearings.